

25.04.2023
tkm/ct 28
sl no. 58

C.R.M. (DB) 4254 of 2022

In Re : An application for cancellation of bail under section 439 (2) of the Code of Criminal Procedure

And

In Re : Rahul Sharma petitioner

Mr. Pawan Kr. Gupta

Mr. A Banerjee

..... for the petitioner

Mr. Santosh Chowdhury

..... for OP

Mr. Avishek Sinha

..... for the State

Order dated 26.10.2022 granting bail to opposite party nos. 2 and 3 herein has been assailed.

Learned lawyer for the petitioner submits opposite party no. 2 is the husband and opposite party no. 3 is the father-in-law of the victim-housewife. They along with other in-laws subjected the housewife to torture over demands of dowry. Ultimately she committed suicide. Suicide note implicates the accused. Without considering gravity of the offence and pending investigation, opposite party nos. 2 and 3 were enlarged on bail. Hence, their bail may be cancelled.

Learned lawyer for the State produces the case diary. He submits investigation is complete. Other co-accused are on bail.

Learned lawyer for the opposite party nos. 2 and 3 submits the allegations of torture and ill-treatment are out and out false. Ingredients of offence are not disclosed. Opposite party nos. 2 and

3 stand on the same footing with co-accused who are on bail. No challenge has been thrown to their bail.

We have considered the materials on record. Victim-housewife committed suicide within four years of marriage. It is true there are materials implicating opposite party nos. 2 and 3 in the crime. Suicide note implicates opposite party nos. 2 and 3 as well as other co-accused i.e mother-in-law and sister-in-law. Other co-accused are on bail. Their bail has not been challenged. But the bail order of opposite party nos. 2 and 3 has been challenged. We fail to understand the selective challenge to the bail of opposite party nos. 2 and 3. Investigation is complete and there is no allegation of misuse of liberty. Opposite party nos. 2 and 3 have permanent home and hearth and there is no chance of abscondence.

Under such circumstances, though we consider that the order granting bail is not happily awarded but in the light of the subsequent events and as the matter is ready for commitment, we do not find any reason to cancel bail of opposite party nos. 2 and 3 and commit them to custody.

With the above observations application for cancellation of bail is dismissed.

Learned magistrate is directed to forthwith commit the case to the Court of Sessions and upon commitment the Sessions Court shall proceed with the matter with utmost expedition and take the proceeding to its logical conclusion. In the event, opposite party nos. 2 and 3 and other co-accused delay or dilate the proceeding or

misuse liberty in any manner, it shall be open to the petitioner to renew his prayer for cancellation of bail in accordance with law.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)