

07.06.2023

ML. 31
Court No. 29
Suvayan/
Sourav

C.R.M. 9342 of 2020

In Re: - An application under Section 439 (2) of the Code of Criminal Procedure, 1973.

And

In the matter of: **Pradip Mondal**

....petitioner.

Mr. Pinaki Bhattacharyya
Mr. Kushal Das
Mr. Amartya Mohan Bhattacharyya

...for the petitioner.

Mr. Madhusudan Sur
Mr. Dipankar Paramanick

...for the State.

Mr. Satyajit Mondal
Mr. Suranjan Mondal

... for the opposite party nos. 2 to 4.

Mr. A. B. Chakraborty

... for the opposite party nos. 5 and 6.

1. Heard learned Counsel for the parties.
2. Affidavit-of-service as filed by the learned Counsel for the petitioner be taken on record.
3. This petition for cancellation of bail at the instance of the informant. The cancellation has been sought for on the ground that the opposite parties obtained anticipatory bail from the court below by suppressing the fact that earlier such application for anticipatory bail was rejected.
4. Learned Counsel for the opposite party nos. 2 to 4 appearing in the present case submits that, in fact, the earlier petition for anticipatory bail was rejected by the concerned Sessions Court on the ground of default and non-submission of case diary and that such fact was pleaded in paragraph 10 of the subsequent anticipatory bail application which is there on

record in the present case.

5. In view of such fact, the first contention raised by the learned Counsel for the present petitioner is negatived.
6. The second contention of the learned Counsel for the petitioner is that after getting bail in the present case, the brother of the present petitioner has been murdered by the opposite parties and charge-sheet has already been filed in that case. It is further submitted by the learned Counsel for the petitioner that all the opposite parties being at large in the murder case, the police having not arrested them, they are threatening the present petitioner.
7. It is submitted by learned Counsel for the opposite parties that all the opposite parties have complied with the order passed by the court below both in anticipatory bail so far as opposite party nos. 2 to 4 are concerned and in regular bail so far as the opposite party nos. 5 and 6 are concerned. charge-sheet has already been filed in the meantime in this case.
8. This is not the forum where on the basis of the police papers only we can find out the connection between the present case and the case involving murder of the brother of the present petitioner.
9. It is alleged that the opposite parties are absconding but all the opposite parties are represented by lawyers before this Court in the present case which shows that they are present in their locality and the police has not taken proper action to apprehend them. If the police finds prima facie their involvement in the murder case, it is the duty of the police to

apprehend or arrest them as thought just and proper.

10. We, therefore, are not inclined to cancel the bail of the opposite parties but we feel persuaded to impose the following conditions:

- i) the opposite parties shall not in any way threaten, induce or coerce the petitioner or any witness of this case.
- ii) They shall not resort to any overtact so far as the civil dispute is concerned without appropriate order by the competent Civil Court;
- iii) They shall not involve themselves in similar or any other offence during the currency of the order.

11. The opposite parties are directed to appear before the learned Additional Chief Judicial Magistrate, Diamond Harbour in connection with Mandir Bazaar P.S. Case No. 335 of 2019 dated 13.12.2019 within a fortnight of receipt of server copy or certified copy of this order.

12. In the event of their appearance, learned ACJM is directed to prepone the case record to do the needful in accordance with law at his end.

13. The application being **CRM 9342 of 2020** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

