

**26.09.2023.**

Item No. 73

Court No.1

ap

*CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI  
CRIMINAL MISCELLANEOUS JURISDICTION  
APPELLATE SIDE*

**C.R.M. (DB) No. 168 of 2023**

In Re:- An application for cancellation of anticipatory bail under Section 439(2) of the Code of Criminal Procedure filed on 12.04.2023.

And

In the matter of: **Terai Tea Company.** ...petitioner

Mr. Sanjay Mazoomder,  
Ms. Sukanya Adhikary.

....For the petitioner.

Mr. Aditi Shankar Chakraborty, APP,  
Mr. Sourav Ganguly.

....For the State

1. Leave is granted to the Advocate-on-record of the petitioner to correct the cause title.

2. Anticipatory bail was granted to one Biswajit Sen on 9<sup>th</sup> February, 2023 in C.R.M. (A) No. 49 of 2023. The Company has taken out this application for recall and/or cancellation of the said order on the ground of suppression of material facts.

3. Despite service of notice, the said Biswajit Sen is not represented. Affidavit-of-service filed in Court today be taken on record.

4. It appears that a Single Judge of this Court in W.P.A. No. 23 of 2021 (wherein one of us was a member) had on

30<sup>th</sup> September, 2021 directed the Investigating Officer of the case to take out an application for proclamation and attachment. The same had already been done on 13<sup>th</sup> July, 2022.

5. The respondent no.2 has not surrendered and is absconding pursuant to the proclamation and attachment orders which are outstanding for more than a year. Now suppressing all these material facts, the order dated 9<sup>th</sup> February, 2023 has been obtained. The accused is guilty of suppression of material facts.

6. In that view of the matter, since a proclaimed offender cannot ordinarily be allowed to apply for anticipatory bail and may also have suppressed material facts, the order granting anticipatory bail by a Co-ordinate Bench of this Court dated 9<sup>th</sup> February, 2023 passed in C.R.M. (A) No.49 of 2023 shall stand recalled and cancelled. The accused shall be arrested forthwith.

7. Hence, C.R.M. (DB) No.168 of 2023 shall stand disposed of.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Supratim Bhattacharya, J.)      (Rajasekhar Mantha, J.)**

