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Calcutta High Court
In the Circuit Bench at Jalpaiguri

CRM (DB) 423 of 2023

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

In the matter of : Smt. Madhumita Ghosh

... petitioner

Mr. Arnab Sengupta,
Mr. Rajesh Kumar Sharma,
Mr. Deborshi Dhar,
Mr. Janardan Periwai,
Mr. Riju Dey

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly

...for the State

Mr. Anirban Banerjee,
Mr. Gobindo Ghosh

...for the O.P. no. 2

1. Learned counsel for the petitioner contends that the opposite party no. 2, by patently suppressing that she had applied for anticipatory bail before the Sessions Court as well as this Court but had failed to obtain the same, applied afresh for anticipatory bail and obtained the same by the order sought to be cancelled. By placing reliance on paragraph no. 1 of the concerned application for anticipatory bail, bearing CRM(A) 325 of 2023, it is reiterated that the petitioner clearly mentioned, incorrectly, that she had never moved any application for anticipatory bail either before the

Learned Sessions Judge, Darjeeling or before this Court. It is argued that in view of such material suppression, the order of anticipatory bail obtained by the petitioner herein ought to be cancelled.

2. Learned counsel for the private respondent/opposite party no. 2 initially seeks to file an affidavit-in-opposition.

3. However, in view of absence of controversy regarding the fact that the suppressions were actually made by the petitioner, which is evident from her averment in paragraph no. 1 of the anticipatory bail application, read in conjunction with the certified copies of the orders of rejection by the Sessions Court and this Court, such prayer is refused.

4. Learned counsel appearing for the opposite party no. 2 also seeks to argue that no specific purpose would be served by the said alleged suppression by the opposite party no. 2.

5. However, such submission is ridiculous, since the deliberate suppression pertains to material facts inasmuch as similar prayers for anticipatory bail had been previously rejected by this Court as well as the Sessions Judge, the suppression of which enured to the benefit of the opposite party no. 2, since she was successful in obtaining an anticipatory bail on the third attempt.

6. Definitely, if such previous rejections came to the notice of the court granting anticipatory bail, the same would have

a direct and relevant bearing on the grant of anticipatory bail to the petitioner.

7. In such view of the matter, the relief of anticipatory bail granted to the opposite party no. 2 is required to be cancelled.

8. Accordingly, C.R.M. (DB) 423 of 2023 is allowed, thereby canceling the order of anticipatory bail granted in favour of the opposite party no. 2, vide order dated June 12, 2023, in C.R.M.(A) 325 of 2023.

9. The opposite party no. 2 shall surrender before the learned Additional Chief Judicial Magistrate, Siliguri and will be at liberty to obtain regular bail upon such surrender.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)