

71 23.04.2024
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73 Court No.29
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C.R.M. (DB) 539 of 2024
and
C.R.M. (DB) 565 of 2024

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

And

In the matters of: - The State of West Bengal

...Petitioner
[in both matters].

Mr. Saibal Bapuli,
Mr. Bibaswan Bhattacharya
... for the Petitioner/State
(in both the matters).

Mr. Ranjan Kali,
Mr. Sobhan Pathak
... for the Opposite Party
(in both the matters).

Two applications for cancellation of anticipatory bail are taken up for consideration analogously as they emanate out of the same police station. Both the applications are at the instance of the State.

Learned advocate appearing for the State submits that the private opposite parties in both the applications are involved with an inter-State racket which allures members of the public on the representation that such members of the public will be granted job in the railways on payment of money. He draws the attention of the Court to the materials in the case diary. He submits that, there are telephonic conversations between one of the arrested co-accused with the two private opposites parties herein. There are banking transactions between one of the arrested co-accused and two private opposite parties herein. He submits that, co-accused were seen in a close circuit television footage handing over the fake

documents of appointments to the victims.

Learned advocate appearing for the private opposite parties submits that, the applications for cancellation of anticipatory bail are not maintainable since they were subsequently enlarged on regular bail. He submits that, the private opposite parties are not named in the First Information Report. There is no allegation of post bail conduct.

We considered the rival contentions of the parties.

Learned Sessions Judge proceeded to grant anticipatory bail to the two private opposite parties on September 5, 2023 and September 20, 2023.

The first order of grant of anticipatory bail, being September 5, 2023 proceeds on the basis that, the role of the petitioner, namely Bikash Pandey as reflected in the case diary. Learned Sessions Judge was of the view that prayer for anticipatory bail should be allowed.

Learned Judge, however, did not allude to the role of the private opposite party, Bikash Pandey that he found from the materials in the case diary.

The role of Bikash Pandey as per in the case diary is that, there are telephonic conversations between him and one of the arrested co-accused. There are banking transactions between him and the arrested co-accused. The arrested co-accused was seen delivering documents to the victims.

The racket is one of peddling Government job for money. In fact, fake Government jobs were sought to be passed of to unsuspected member of the public on payment of money.

The proceeds of the scam ultimately landed up in the banks

accounts of Bikash Pandey and Akash Pandey.

These are materials which the learned Judge, with deepest respect, did not take into consideration while granting anticipatory bail to Bikash Pandey.

The next order of grant of anticipatory bail to the other private opposite party, namely Akash Pandey i.e., dated September 20, 2023 proceeds on the basis that Akash Pandey was similarly situated as Bikash Pandey.

No doubt, Bikash Pandey and Akash Pandey are similarly situated as, they are guilty of holding the proceeds of the crime.

Their nexus with the crime alleged cannot be overlooked.

Materials in the case diary require investigation and in particular investigation into the role of the private opposite parties.

The point of maintainability is of no consequence. The private opposite parties obtained regular bail after obtaining the order for anticipatory bail.

In fact, regular bail was granted since, the private opposite parties were afforded the anticipatory bail. Regular bail was in pursuance to the anticipatory bail.

In such circumstances, we cancel the orders granting anticipatory bail to the private opposite parties dated September 5, 2023 passed in Criminal Misc. Case no.3840 of 2023 and the order dated September 20, 2023 passed in Criminal Misc. Case no.4027 of 2023 .

All consequential steps taken pursuant to the two orders are cancelled.

Private opposite parties will surrender before the jurisdictional court within seven days from date.

In default, jurisdiction court will take appropriate steps.

C.R.M. (DB) 539 of 2024 and C.R.M. (DB) 565 of 2024 are disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

