

27.08.2024
SL No.184
Court No.29
(gc)

CRM (DB) 2082 of 2023

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

And

In the matter of: **Father Molai Bernard Dcosta @ Molai Bernard Dcosta**

.... petitioner.

Mr. Navanil De,
Ms. Monami Mukherjee
....For the Petitioner.
Mr. Prosenjit Mukherjee
....For the O.P. No.2.

1. This is an application for cancellation of anticipatory bail granted by the learned Judge, Special Court-cum-Additional Sessions Judge, 1st Court, Hooghly Sadar. The application for cancellation of anticipatory bail, however, has been filed on 17th May, 2023.
2. In the order dated 30th June, 2022, it has been categorically stated that the investigation is complete and the Investigating Officer has filed the charge-sheet. Admittedly, the trial had commenced. The petitioner was on anticipatory bail for almost 11 months prior to the present application being filed for cancellation. It is not in dispute that in the meantime charges have been framed and Molai Bernard had deposed as P.W.-1.
3. The main contention for cancellation appears to be that in the application for anticipatory bail it has been specifically stated that the petitioner has never filed any application for

anticipatory bail in the Hon'ble High Court at Calcutta in connection with the self-same case or in the Court of learned Sessions Judge, Hooghly. However, it would transpire from record that the opposite party had filed an application for anticipatory bail in March, 2022 being CRM (A) 1459 of 2022 which was ultimately dismissed as not pressed on 25th April, 2022.

4. It is the contention of Mr. Navanil De, learned Counsel appearing on behalf of the petitioner that the petitioner having realized that the said application would be dismissed on merit if he failed to return the amount misappropriated, chose not to proceed with the matter and this fact has been deliberately suppressed before the learned Sessions Judge.
5. We would have accepted the said contention provided the order dismissing the application for anticipatory bail or otherwise on merit and there has been no laches on the part of the petitioner in approaching either the Trial Court or the High Court for cancellation. In the meantime, charge-sheet has been filed and the charges have been framed. The trial has also commenced. Moreover, the consideration that weighed with the learned Trial Court appears to be relevant consideration for the purpose of granting anticipatory bail. All the documents have been collected by the Investigating Officer and the trial has already commenced.
6. Under such circumstances, we do not find any reason to cancel the anticipatory bail granted by the learned Trial Court.

7. We, however, request the learned Trial Court to complete the trial as expeditiously as possible.
8. Accordingly the application for cancellation of anticipatory bail is disposed of.
9. However, there shall be no order as to costs.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)