

17.01.2024
Sl. No.74
akd

C. R. M. (DB) 2088 of 2023

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 17.05.2023 :

A N D

In Re : Hasiruddin Jamadar

..... Petitioner

Mr. Anindya Ghosh
Mr. Pronojit Roy

... .. for the petitioner

Mr. Tanmay Chowdhury
Ms. Ritoprita Ghosh

... .. for the opposite party nos.2 to 5

Mr. Binay Panda
Mrs. Puspita Saha

... .. for the State

1. Order dated 04.05.2023 granting bail to the opposite party nos.2 to 5 herein has been assailed.
2. It is contended that the anticipatory bail prayer of the said opposite party nos.2 to 5 had been turned down by this court as well as the Hon'ble Apex Court. Thereafter they failed to appear before the trial court within the time stipulated. In spite of the aforesaid facts, they have been enlarged on bail.
3. Learned Advocate for the opposite party nos.2 to 5 submits her clients are not the principal accused. One Sk. Fatenur had assaulted the victim with a sword resulting in grievous injuries. Hon'ble Apex Court gave liberty to appear before the trial court and pray for regular bail. Pursuant thereto they appeared and prayed for regular bail. As charge sheet had been filed, they were granted regular bail.

4. We have considered the materials on record. Order granting bail to the opposite party nos.2 to 5 herein has been assailed on various grounds. Firstly, it is contended that pre-arrest bail of the said opposite party nos.2 to 5 herein had been turned down by this court as well as the Hon'ble Apex Court. Secondly, it is contended that offence under Section 307 of the Indian Penal Code which attracts mandatory life imprisonment has not been considered.
5. With regard to the first issue it must be borne in mind that the yardstick for grant of pre-arrest bail are higher than that of regular bail. Submission of police report is a relevant ground on which regular bail may be granted.
6. On the other issue namely, allegations involving offence under Section 307 IPC punishable with imprisonment for life, we note the allegation of assault by sword resulting in grievous injuries is against the co-accused viz. Sk. Fatnur. Though statements show opposite party nos.2 to 5 herein were also present, the grievous assault is not attributed to them. There is a prior enmity between the parties. Case and counter-case were registered. Possibility of false implication cannot be ruled out.
7. Under such circumstances, we do not find any reason to cancel the bail granted to opposite party nos.2 to 5 herein.
8. CRM (DB) 2088 of 2023 is accordingly disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)