

02.01.2024
Sl. No. 19
Srimanta

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM(DB)/702/2023

**In Re : An application for cancellation of bail under
Section 439(2) of the Code of Criminal Procedure, 1973
And**

In the matter of : Smt. Anita Rani Chhetri

...Petitioner.

Ms. Rima Sarkar

...for the petitioner.

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

...for the State.

Mr. Anirban Banerjee,
Mr. Debasish Mukhopadhyay

...for the opposite party no. 2.

Heard Ms. Rima Sarkar, learned Advocate for the petitioner, Mr. Aditi Shankar Chakraborty, learned Advocate for the State and Mr. Anirban Banerjee, learned Advocate for the opposite party no. 2.

This application for cancellation of bail granted by the Sessions Judge, Darjeeling in Criminal Misc. Case No. 376/2023 under Section 438 of the Code of Criminal Procedure in Case No. 237/2023 dated 30.10.2023 under Sections 447/420/465/467/468/471/472/473/474 of the Indian Penal Code corresponding to GR Case No. 4101/2023, P.S.-Naxalbari, Dist.-Darjeeling.

Learned Counsel for the petitioner submits that the anticipatory bail has been granted to the accused in the aforesaid criminal case merely on the ground of compliance of conditions of Section 41A of the Code of Criminal Procedure and, therefore, the anticipatory bail deserves to be cancelled.

Learned Counsel for the accused submits that the anticipatory bail has been granted considering the facts of the case in its entirety and also the fact that firstly the accused

has lodged a complaint against the present petitioner and as a counterblast thereto, the present petitioner has lodged a complaint against the present accused. He submits that even on issuance of notice under Section 91 of the Code of Criminal Procedure by the Investigating Officer, the present petitioner/complainant has failed to furnish the deed and documents in support of her claim of ownership with respect to the land in question. He further submits that the accused has not misused the liberty of anticipatory bail and, therefore, no case has been made out by the petitioner for cancellation of the anticipatory bail.

Learned Counsel appearing for the State submits that during the course of investigation by the Investigating Officer, it came to light that subsequent to the grant of anticipatory bail, the patta in the name of the accused, Asraf Ansari @ Mantu and his father, Liyakat Ansari do not bear signature of the then Block Land and Land Reforms Officer, Naxalbari.

We have considered the submissions of the learned Counsel for the parties and we find that no case for cancellation of anticipatory bail has been made out by the petitioner inasmuch as, firstly, no submission has been advanced alleging any misuse of liberty of bail by the accused. Secondly, the petitioner has not disputed the observation of the Sessions Judge in the anticipatory bail order dated 09.11.2023 that the petitioner/complainant did not furnish the deed and documents in support of her claim of ownership pursuant to the notice issued by the Investigating Officer under Section 91 of the Code of Criminal Procedure and thirdly, State has neither lodged any FIR nor has applied for cancellation of bail of the accused.

In view of the aforesaid, the present petition for cancellation of bail is dismissed leaving it open for the State

to move an application for cancellation of the bail, if so advised.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)