

03.03.2025

ML-70
Court No.26
(Dismissed)
(AD)

CRM (DB) 3359 of 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 : XXX

... ...Petitioner

Ms. Devi Priya Mitra, Advocate
... for the petitioner.

1. Cancellation of bail granted by the Order No.10 dated June 22, 2023 passed by the jurisdictional Court is sought for.
2. It has been submitted on behalf of the learned Advocate appearing for the petitioner that, the bail was granted by the learned Trial Court without considering the materials in the case diary specially the medical examination report.
3. It is on this ground cancellation of bail is sought for.
4. On perusal of the impugned order, it transpires that, the learned Trial Court granted bail to the private opposite party in consideration of the fact that there were two contradictory medical reports. Learned Trial Court did not take into consideration the hymenal membrane and hymen torn and the same were found to be working.
5. Having considered the impugned order as well as the materials placed before us, it transpires that, the bail was granted to the private opposite party in consideration of contradictory medical reports.

6. There is nothing on record to establish that the bail was granted in complete defiance of a medical report suggesting a penetrative sexual assault upon the victim.
7. In such circumstances, we are not inclined to cancel the bail granted to the private opposite party by Order No.10 dated June 22, 2023.
8. **CRM (DB) 3359 of 2023** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)