

03.03.2025

ML-79
Court No.26
(Dismissed)
(AD)

CRM (DB) 3529 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 : X (Mother of the victim)

... ..Petitioner

Mr. Arindam Jana, Advocate
Ms. Jhuma Sen, Advocate
Mr. Samsul Laskar, Advocate
Ms. Swastika Chatterjee, Advocate
... for the petitioner

Mr. Rudradipta Nandy, Ld. APP
Ms. Sonali Das, Advocate
... for the State

1. Order granting bail dated April 13, 2023 is under challenge in the present proceeding.
2. It has been submitted on behalf of the learned Advocate appearing for the petitioner that, the learned Trial Court granted bail to the private opposite party without considering the materials on record. More so, it is contended that, the de facto complainant was not provided with an opportunity of being heard before passing the order impugned. It has been submitted that, for such reasons, the impugned order is liable to be set aside and the bail granted by such order should be cancelled.
3. State is represented.
4. We have gone through the materials on record as well as the impugned order dated April 13, 2023.

5. The private opposite party was granted bail by the impugned order on April 13, 2023. Since then, he has been on bail. He has been facing the trial. The order dated April 13, 2023 itself discloses that, the vulnerable witness was already examined prior to release of the private opposite party on bail.
6. As of now, the private opposite party has been on bail since April, 2023 till date. There is no allegation of any post-bail misconduct or misuse of the privilege of bail extended to the private opposite party.
7. We are conscious that, while granting bail the de facto complainant ought to have been provided an opportunity of being heard. Such opportunity was not provided. Nevertheless, the private opposite party has been on bail without any complaint of post-bail misconduct since April, 2023. Trial has substantially forwarded. It would not be proper to cancel the bail of the private opposite party at this stage.
8. In such circumstances, we are not inclined to cancel the bail of the private opposite party granted on April 13, 2023.
9. **CRM (DB) 3529 of 2023** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)