

12.03.2025
Serial no.90
Dd

CRM (DB) 3228 of 2024

In re : An Application for cancellation of Bail under Section 439(2) of the Code of Criminal Procedure, 1973. (corresponding to Section 483(3) of BNSS, 2023).

-And-

In the matter of : Dali Bibi
... ..Petitioner

Mr. Sanjib Seth, Advocate
... .. For the Petitioner
Mr. Suman De,
Ms. Puja Goswami, Advocates
... ..For the State
Md. Hafiz Ali, Advocate
... ..For the private Opposite Party

1. Cancellation of bail granted by the learned Additional Sessions Judge on August 16, 2024 passed in CMC No.359 of 2024 is prayed for.
2. Learned advocate appearing for the petitioner draws the attention of the Court to the fact that, although police filed charge sheet, an exception application was filed with regard thereto. The exception application is still pending before the jurisdictional Court.
3. Referring to the statement recorded under Section 161 of the Criminal Procedure Code, learned advocate appearing for the petitioner submits that there are eye-witnesses versions of the involvement of the private opposite party in the murder. He submits that the private opposite party is also guilty of misconduct post grant of bail. He contends that, the bail existing in favour of the private opposite party should be cancelled.
4. State and the private opposite party are represented.

5. Learned advocate appearing for the State submits that, further statements under Section 164 of the Criminal Procedure Code were recorded which implicate the private opposite party. Moreover, on receipt of police complaint, police initiated proceedings under Section 107 of the Criminal Procedure Code against the private opposite party.
6. In an incident of assault, a person expired. Post mortem report states that the death is homicidal in nature.
7. Private opposite party is one of the persons implicated in such murder.
8. Statement of the eye-witnesses which the petitioner relies upon names a number persons who were involved in the incident. It also states that there were pre-existing land disputes with the family of the deceased.
9. Learned Additional District Judge considered the nature of the incident, the involvement of the private opposite party, the age of the private party, the materials in the case diary and the period of detention of the private opposite party and proceeded to grant bail to the private opposite party.
10. So far as the police case is concerned, there is hardly any possibility of the trial ending any time in the near future since, police are yet to submit a supplementary charge sheet subsequent to cancellation of the initial charge sheet being taken by the petitioner.
11. Categorical role in the incident of assault is not attributed to the private opposite party by the eye-witnesses recording the statement under Section 161 of the Criminal Procedure Code. The version of such eye-witnesses is that the private opposite party was one of the members of the assembly of persons who assaulted with various equipment and were involved in the incident of assault.

12. In such circumstances, we do not find any compelling reason to cancel the bail existing in favour of the private opposite party.
13. CRM(DB)3228 of 2024 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Smita Das De, J.)