

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. 29/2023

The State of Tripura

....Applicant(s)

Versus

Sri Manik Lal Das

....Respondent(s)

For Applicant(s)	:	Mr. Raju Datta, P.P.
For Respondent(s)	:	Mr. S. Chakraborty, Advocate Mr. S. Lodh, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

22/02/2024

Heard Mr. Raju Datta, learned P.P. appearing for the applicant-State of Tripura. Also heard Mr. S. Chakraborty and Mr. S. Lodh, learned counsel appearing for the accused-respondent.

2. This is an application filed under Section 439(2) read with Section 482 of Cr.P.C. praying for cancellation of bail against the impugned order of bail dated 06.06.2023 and subsequent order dated 23.08.2023 passed by the Court of learned Sessions Judge, Belonia, South Tripura in connection with Belonia P.S. Case No.2023 BLN 036 registered under Sections 448/452/325/ 307/ 384/354/120B/506 of IPC.

3. Factual background of the instant bail application is that one, Sri Joydeb Saha had lodged a complaint to the Officer In-charge of Belonia PS stating *inter alia* that the accused person trespassed his house, assaulted him and also molested his old aged mother. On the basis of the said complaint, the Officer In-charge of the Belonia Police Station had registered a case under Sections 448/452/325/307/384/354/120B/506 of IPC on 24.05.2023.

4. The learned Sessions Judge, Belonia, South Tripura while granting bail to the accused vide order dated 06.06.2023 had observed thus:

"7. I have perused the case diary and also the bail application attached with some documents and also the LC record.

8. On perusal of the FIR, this court finds that the ejahar was written by the informant-injured on 23.05.2023 about the incident took place

on 22.05.23 and FIR was lodged on 24.05.23 against the accused in custody and some others under various sections of the Indian Penal Code. Out of these sections, section 307 of IPC has maximum punishment. Other serious offences are under section 452, 382, 354 and 325 of IPC.

9. On the direction of this court, IO has collected the injury report of the victim. As per the injury report, this court is of the opinion that prima facie the ingredients of section 307 of IPC are not attracted in this case.

10. From the LC record, this court finds that accused is in custody and under treatment from 24.05.2023. So this court is of the opinion that this is a fit case for granting bail to the accused. Accordingly, accused is released on bail on furnishing bail bond of Rs.30,000/- with one surety of like amount on the satisfaction of learned Chief Judicial Magistrate, South Tripura, Belonia, with direction that accused will not interfere in the investigation of this case and will not threat or consult any of the witnesses and during investigation, if the IO requires, the accused will appear before the IO.”

5. Thereafter, the complainant, Sri Joydeb Saha had filed another complaint against the accused person which was received by the Belonia PS on 24.07.2023 wherein it was alleged that the accused person had threatened the complainant to withdraw the case. On receipt of this complaint, on the instruction of the Officer In-charge of the Police Station, a GD entry has been made vide No.09 dated 24.07.2023 at 0830 hrs directing one Inspector of Police namely, Sukanta Tripura to inquire and take action as per law. Accordingly, an inquiry was made and report has been submitted on 24.07.2023 itself vide Belonia PS PR No.517/2023 dated 24.07.2023 under Section 107 of Cr.P.C. against the accused-respondent, Manik Lal Das. In pursuance of the aforesaid complaint and GD entry, the applicant-State of Tripura had filed an application for cancellation of bail which was rejected under order dated 23.08.2023 by the Court of learned In-charge, Sessions Judge, Belonia, South Tripura. While disposing of the said application for cancellation of bail filed by the applicant-State of Tripura, the learned In-charge, Sessions Judge had observed thus:

“32. Reverting to the present case, if we consider the complaint made by the informant before the O/C, Belonia P.S., it is found that what the informant alleged in his written complaint is that for 4/5 days the accused Manik Lal Das has been reattaining him to withdraw the case lodged by him against the accused for which the informant has been feeling insecure. It is apparent that such allegation of threat by the accused is bereft of any particulars with regard to date, time and place of threat; manner in which such threats were given witnesses who saw or heard the same. So, keeping in view the pronouncements cited above, I have no hesitation to hold that such allegations of threats is omnibus and general statement and cannot be taken into consideration to deprive liberty of a citizen who has been admitted on bail.

33. With regard to involvement of the accused in another case under West Agartala P.S., the prosecution has failed to bring anything on record, save and except the copy of order dated 10.08.2023 passed by the Hon'ble High Court of Tripura in case No. AB 17 of 2023. However, it is apparent that said bail application was dismissed by the Hon'ble High not on merit, but on the ground that without approaching the Court of Sessions the accused had approached the Hon'ble High Court directly. However, mere registration of subsequent case against the accused by itself is not sufficient supervening circumstance to cancel his bail. In holding so I find support from the decision of the Hon'ble Kerala High Court pronounced in "Renjith Vs. State of Kerala", 2023 SCC OnLine Ker 1252 where the Hon'ble High Court held:

"11. The mere registration of a subsequent crime against the accused by itself cannot result in an automatic cancellation of bail. Registration of a subsequent crime is only an indication of an allegation or a complaint of the accused having been involved in a subsequent crime. The presumption of innocence available to the accused in the second crime, the right to liberty as a fundamental right under Article 21 of the Constitution of India which

envelopes every provision of the Code of Criminal Procedure are factors which cannot be forgotten by the Court when called upon to cancel the bail. The possibility of false accusations being alleged with oblique motives also cannot be ignored. The nature of the subsequent offence and the persons against whom the offence is alleged to have been committed, the stage of the case wherein cancellation is sought are also factors that require appreciation. Apart from the above, while arriving at the conclusion to cancel the bail, the Court must also consider whether the accused had misused the liberty granted in such a manner that it has a tendency to interfere with the due course of the administration of justice. Thus, every case presents a unique situation and close scrutiny ought to be indulged in to identify whether overwhelming circumstances are indeed present in the subsequent crime which necessitates the cancellation of bail earlier granted."

34. Coming to the another circumstances projected from the prosecution is that the accused Manik Lal Das refused the notice for his appearance issued by the I.O. However, on perusing the case diary I find no such convincing material to substantiate such ground also.

35. In view the above discussion, I hold that the prosecution failed to make out a case warranting cancellation of bail of the accused Manik Lal Das and therefore, the application in this regard is liable to be rejected. Accordingly, I do so."

6. So, from the above order dated 23.08.2023, I find that the learned In-charge, Sessions Judge while rejecting the prayer for cancellation of bail of the accused Manik Lal Das had made a threadbare discussions both on the facts as well as the principles for rejection of the benefit of bail. However, being dissatisfied with the above order of the learned In-charge, Sessions Judge, the applicant-State of Tripura has filed the instant application for cancellation of bail of the accused-respondent.

7. Mr. Datta, learned P.P. relying upon the decision of the Hon'ble Supreme Court in the *State through Central Bureau of Investigation vs. T. Gangi Reddy alias Yerra Gangi Reddy*, reported in (2023) 4 SCC 253 has submitted that the High Court and the Sessions Court have the ample power to cancel the bail granted to an accused. Mr. Datta, learned P.P. has submitted that if the Courts find that the accused having released on bail abuses its benefit, then, the Court should cancel the bail granted to such an accused.

8. There is no quarrel as regards the above principle. In the instant case, what I find that the complainant/informant, Joydeb Saha while lodging his subsequent complaint stated that for the last 3-4 days of the complaint, the accused-respondent had been threatening him to withdraw the case. In my opinion, learned Sessions Judge has rightly held that apart from the above information, no materials had been produced before the Investigating Officer to substantiate the allegations made against the accused-respondent, Manik Lal Das. There is no reference as to the place, and in what manner the informant had been threatened. There is no witness also. Further, it is transpired that after receipt of the information, the Officer In-charge of the Belonia PS without loss of time instructed the Inspector, Sukanta Tripura to investigate the allegations. Accordingly, the said Inspector investigated the matter. But, it transpires that the informant failed to provide any information to the said Investigating Officer as to where and as to how the accused-respondent had threatened the informant. No materials have been placed, even no witnesses came forward to support the information lodged by the informant, Joydeb Saha. Naturally, such information may be termed as omnibus.

9. By now, there is another development. It is informed in the Bar by both the learned counsel appearing for the parties that the Investigating Officer has already submitted charge-sheet against the accused person under Sections 448/120B/354/506 of the IPC. The other Sections which were included at the time of lodging of the F.I.R. have been excluded. There is no material on record that before filing the charge-sheet there was any incident of threatening or intimidating or any attempt to win over the witnesses related to the instant case.

10. According to this Court, the inquiry report submitted by Inspector, Sukanta Tripura is very relevant in deciding the issue raised by the State of Tripura as a ground for cancellation of bail and this is the GD entry no.09 dated 24.07.2023 registered upon the aforesaid information. During his thorough investigation, the said Inspector never found any witness to support the allegations levelled against the accused-respondent. It is submitted by learned counsel appearing for the accused-respondent that the information passed on the police station on 24.07.2023 was concocted, vexatious and had been made intentionally and was a blatant attempt to push the accused-respondent again to the custody on political considerations.

11. Learned counsel for the accused-respondent have candidly submitted that the prosecution has miserably failed to make out a case for cancellation of bail granted to the accused-respondent.

12. In the light of the aforesaid facts and circumstances and on consideration of the established principles for cancellation of bail, in my opinion, the present case is not a fit case for cancellation of the privilege of the accused-respondent.

13. Accordingly, the instant application for cancellation of the bail stands rejected.

JUDGE

Snigdha

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