

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.506 of 2017**

Arising Out of PS. Case No.-84 Year-2016 Thana- KHAGAUL District- Patna

SACHITA NAND SINGH @ SACHIDA NAND SINGH Son of Sri Ranjit  
Singh Resident of Neura Colony Quarter No.502 B, Khagaul District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Nitu Singh Wife of Sachita Nand Singh, Daughter of Raj Ballav Prasad,  
Resident of Village- Dhelwa, P.S.- Ram Krishna Nagar, District- Patna.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Rajendra Kumar Jain  
For the Respondent/s : Mr.Smt. Rita Verma

**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

5      27-08-2019                      This criminal revision application has been filed against the order dated 16.03.2017 passed by the learned Additional Sessions Judge -VII, Patna in cancellation bail application no. 5027 of 2016, whereby and whereunder, learned court below has cancelled the the anticipatory bail of the petitioner.

Facts in short is that an F.I.R. was lodged by opposite party no. 2 with respect to an offence under Sections 341, 323, 504, 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act with respect to demand of dowry and cruelty and torture at the hands of the petitioner. It further appears that petitioner moved for grant of anticipatory bail in



5027/2016 before the learned District & Sessions Judge, Patna, which was transferred to the court of learned Additional Sessions Judge -VII, Patna for disposal. It further appears that during pendency of the anticipatory bail application, both the parties reached to a settlement/compromise and a compromise petition dated 22.08.2016 was filed before the learned Additional Sessions Judge -VII, Patna and the learned Additional Sessions Judge -VII, Patna on the basis of the said compromise petition, allowed anticipatory bail to the petitioner vide order dated 05.09.2016 passed in A.B.P. No. 5027/2016. Thereafter, opposite party no. 2 started residing in her sasural. It further appears that opposite party no. 2 after living sometimes in her matrimonial house, filed a petition for cancellation of anticipatory bail of the petitioner on 31.01.2017. Learned court below after issuance of notice to the petitioner and after hearing both the parties vide order on 16.03.2017 in cancellation of bail application no. 5027/2016, has cancelled the bail bond of the petitioner.

Being aggrieved by the same, the petitioner has preferred present revision application.

Submission of learned counsel for the petitioner is that the learned court below has erred in cancelling the



anticipatory bail earlier granted to the petitioner as he has not followed the parameters, which has been provided under Section 439(2) Cr.P.C., as the violation of compromise does not come under the parameters for cancellation of bail. In support of his contention, learned counsel for the petitioner has relied upon a decision of Hon'ble Apex Court in the case of **Biman Chhatterjee v. Sanchita Chhetterjee and Another** reported in **(2004) 3 SCC 388** as well as the Judgment of this High Court in the case of **Md. Mustafa @ Md. Mustafa Sah vs State Of Bihar** reported in **2015 (3) PLJR 772** and submitted that the order cancelling the anticipatory bail is against the settled principle of law. Further submission is that even though if it is believed that there is application for violation of compromise, then also, learned Additional Sessions Judge -VII, Patna ought to have enquired in to the matter and only after enquiry, he ought to have cancelled the bail bond of the petitioner but without considering the same, in very mechanical manner, the order has been passed cancelling the anticipatory bail of the petitioner, which is not sustainable in the eye of law.

On the other hand, learned counsel appearing on behalf of opposite party no. 2 has supported the order and submitted that there is no illegality or impropriety in the order



passed by the learned Additional Sessions Judge – VII, Patna.

However, after some argument, both the parties have jointly prayed that the parties may be provided another chance to reconcile the dispute.

Heard the parties. The provisions for cancellation of bail has been provided under Section 439(2) Cr.P.C. but it is well settled that the power for cancellation of bail be utilized only when there are cogent and overwhelming circumstances for cancellation of bail granted to the accused as the order jeopardize the personal liberty of a person, as such, the order for cancellation of bail should not be passed in routine or mechanical manner. It is also well settled that the parameters for granting of bail or even rejecting the bail are different from the parameters for cancelling a bail, as the order lead to curtailing liberty of a person. So far provision of cancellation of bail is concerned, the same can be cancelled when the accused is found (I) tampering with the evidence (ii) when the person on bail commits similar offence or any heinous offence (iii) when the accused has absconded and the trial gets delayed on that account (iv) when the offence so committed has created serious law & order problem (v) when the High Court thinks that lower court granting bail has exercised his power wrongly and ; (vi)



when the High Court and Sessions court find that the accused has misused the privilege of bail.

In the case of **Biman Chhatterjee** (supra), the Hon'ble Apex Court has held in para 7 of judgment as follows:

“7. Having heard the learned counsel for the parties, we are of the opinion that the High Court was not justified in cancelling the bail on the ground that the appellant had violated the terms of the compromise. Though in the original order granting bail there is a reference to an agreement of the parties to have a talk of compromise through the media of well wishers, there is no submission made to the court that there will be a compromise or that the appellant would take back his wife. Be that as it may, in our opinion, the courts below could not have cancelled the bail solely on the ground that the appellant had failed to keep up his promise made to the court. Here we hasten to observe first of all from the material on record, we do not find that there was any compromise arrived at between the parties at all, hence, question of fulfilling the terms of such compromise does not arise. That apart non-fulfilment of the terms of the compromise cannot



be the basis of granting or cancelling a bail. The grant of bail under [the Criminal Procedure Code](#) is governed by the provision of Chapter XXXIII of the Code and the provision therein does not contemplate either granting of a bail on the basis of an assurance of a compromise or cancellation of a bail for violation of the terms of such compromise. What the court has to bear in mind while granting bail is what is provided for in [Section 437](#) of the said Code. In our opinion, having granted the bail under the said provision of law, it is not open to the trial court or the High Court to cancel the same on a ground alien to the grounds mentioned for cancellation of bail in the said provision of law”.

From perusal of the above judgment, it appears that there was some dispute as to whether there was any compromise at all and in such a situation, the fact of that case is slightly different from the present case. In the present case, the petitioner after compromise had taken the opposite party no. 2 and, thereafter, again subjected her to cruelty and ousted her from her matrimonial house.

Another judgment, which has been relied upon by learned counsel for the petitioner is **Md. Mustafa @ Md.**



**Mustafa Sah** (supra), the learned Single Judge of this Court has also observed the judgment of Hon'ble Apex Court in the case of **Biman Chhatterjee** (supra), while holding that *non-fulfillment of the terms of bond executed by the petitioner at the time of consideration of anticipatory bail could not have been the basis of cancelling his bail. Even, the bond could not have been the basis of grant of bail.* However, as observed above, the facts of the case of **Biman Chhatterjee** (supra) is different from the facts of the present case. The facts of the present case is that a compromise has been reached between the parties and on the basis of the same, the petitioner has been granted the privilege of anticipatory bail, which means that on the basis of compromise, he has been given the liberty. He was knowing the above facts and submitted to that order and never filed any revision or any other application for the condition of grant of bail but, thereafter, as per allegation of opposite party no. 2, he failed to comply the condition given by the learned court below. It may be considered from another angle as had the petitioner not agreed for such compromise, the order ought to have been passed in some other manner but later on he refused to comply the direction.

The case in hand arises out of a matrimonial dispute



between the wife and husband, the court has tried for amicable settlement between the parties, as rejecting or cancelling the bail will not serve the purpose and once the husband is put behind the bar, the probability of settlement between the parties would become very bleak, as such on certain condition, bail has been granted and if accused person flout the condition and no action will be taken against them, then, the effort of the court and parties will be frustrated. It may be decided from another angle that once, the compromise has been reached between the parties and petitioner – husband is ready to keep his wife and, thereafter, again he started assaulting and torturing her that would amount to repeating of similar offence and to my opinion, in such a condition, the court have cancelled the bail bonds of the accused.

However, what appears in this case that merely coming with allegation that opposite party no. 2 was tortured and harassed by the petitioner again, the learned court below ought not to have cancelled the bail bonds of the petitioner rather the learned court below ought to have enquired into the allegation itself or by any other agency and only finding the substance in the allegation, ought to have cancelled the bail bond.



In the present case though it appears that the learned court below has discussed some injury reports apart from the allegation but there is no mentioning as to what type of injury has been caused to opposite party no. 2 rather he neither tried to talk with the parties nor conducted any enquiry with respect to the allegation either by himself or by any agency and the order has been passed cancelling the bail bond of the petitioner.

Moreover, during course of argument, both the parties have submitted that there is chance of reconciliation between the parties and matter can be resolved, if an effort be taken.

Considering the entire discussions made above, the impugned order cancelling the bail bond of the petitioner appears to have been passed in very routine and mechanical manner and without proper application of mind, as such the same is not sustainable.

Accordingly, the impugned order dated 16.03.2017 passed by the learned Additional Sessions Judge -VII, Patna in cancellation bail application no. 5027 of 2016 is set aside and the matter is remanded back to the learned Additional Sessions Judge -VII, Patna for deciding it afresh. Further, in view of the submission of the learned counsels that there is still a chance of reconciliation between the petitioner and opposite party no. 2,



prior to passing any order on the application for cancellation of bail bond, the court below shall make an effort for reconciliation between the parties either by himself or by sending the matter to District Mediation Committee.

With the above observation and direction, this revision application is allowed.

**(Vinod Kumar Sinha, J)**

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