

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 2545 of 2018**

Smt. Suruchi Sahu S/o Tushar Sahu Aged About 34 Years R/o Saket Enclave, Behind Patidar Bhawan, Tehsil And District Bilaspur Chhattisgarh
Current Address Minocha Colony, Tehsil And District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. Tushar Sahu S/o C. L. Sahu Aged About 35 Years R/o Saket Enclave, Behind Patidar Bhawan, Tehsil And District Bilaspur Chhattisgarh.
2. State of Chhattisgarh through Station House Officer Police Station Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For the Petitioner	:	Shri Surfaraj Khan, Advocate.
For the Respondent	:	Shri Adil Minhaj, P.L.
For the Objector	:	Shri Dharmesh Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****12.09.2019**

Heard.

1. The petition has been brought challenging the order of First Additional Sessions Judge, Bilaspur dated 7.4.2018 in M.Cr.C. No. 17 of 2018 rejecting the application of the petitioner under Section 439(2) of the Cr.P.C.
2. It is submitted by counsel for the petitioner that in paragraph 9 of the impugned order learned Sessions Judge has given consideration to the facts that were present prior to filing of the charge-sheet. Although, there is mention of the FIR registered as Crime No. 734 of 2018 in paragraph 10 of the case but there is no observation made as to whether the said criminal case registered against respondent No.2 can be regarded as breach of

condition of grant of bail or not. Therefore, it is prayed that the matter be remanded to the Sessions Court giving direction for reconsideration on the application of the petitioner and for passing fresh orders.

2. Learned counsel for respondent No.1 opposes the petition and submissions made in this respect and submits that the FIR registered as Crime No. 734 of 2018 dated 16.8.2018 is a subsequent event. Respondent No.1 was arrested and detained in this case and has been granted regular bail by the trial Court. Therefore, the facts of the subsequent FIR cannot be taken into consideration for cancellation of bail of respondent No.1 – Tushar Sahu.

3. Learned counsel for respondent No.2/ State makes a formal objection.

4. Heard counsel for both the parties and perused the documents.

5. The mention of the second FIR in Crime No. 734 of 2018 in the order itself shows that the subsequent complaint filed by the petitioner was made a ground for cancellation of bail granted to respondent No.1. From the bare perusal of the impugned order, it appears that apart from mentioning the second FIR there is no observation made and no conclusion drawn by the Sessions Court therefore, it appears that one of the grounds raised by the petitioner was not considered by the Sessions Court while deciding the application under Section 439(2) of the Cr.P.C.

6. Accordingly, this Cr.M.P. is disposed of. The order dated 19.11.2018 passed by the First Additional Sessions Judge in M.Cr.C. No. 17 of 2018 is

set aside and the petition under Section 439(2) of the Cr.P.C. is restored to file. Learned Sessions Court is directed to reconsider the application after taking into consideration the facts and contents of FIR No. 734 of 2018 lodged against respondent No.2 and pass appropriate orders in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge