

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 35364 of 2021

Arising Out of PS. Case No.-248 Year-2020 Thana- ARA NAGAR District- Bhojpur

NAND KISHOR RAM Son of Late Muni Lal Ram Resident of Mohalla -
Goushganj, P.S.- Ara Nagar, Dist.- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chotu Yadav Son of Lambu Yadav Resident of Village - Bhaluhipur, P.S.-
Ara Nagar Thana (Town), Dist.- Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr Kamal Deo Sharma, Advocate
For the S t a t e	:	Ms Meena Singh, APP
For Opposite Party No 2 :		Mr Mukesh Kant, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

6 04-10-2021 Heard learned counsel for the petitioner; learned
Additional Public Prosecutor appearing for the State of Bihar
and learned counsel for the Opposite Party No 2.

Learned counsel for the petitioner submits that the
bail has been obtained by making a wrong submission before
this Court that Opposite Party No 2 (Appellant Chotu Yadav, in
Criminal Appeal (SJ) No 1324 of 2021) surrendered in the Court
below. Referring to certain paragraphs of the case diary, it has
been submitted that in fact, Opposite Party No 2 had been
arrested and had not surrendered before the Court.

The fact of arrest or surrender does not make any
change in respect of the period of custody.



Grant of bail and cancellation of bail, as per the settled legal proposition, have to be considered on completely different parameters. It is, by now, settled that once bail is granted, it is not to be cancelled in a mechanical manner unless supervening circumstance/s exist/s for the Court to arrive at a conclusion that continuance on bail would not be conducive to a fair trial. Generally, some of the circumstances, which have been considered sufficient for cancellation of bail, are when the accused on bail makes an attempt to influence or interfere with the due course of administration of justice or attempts to evade, or evades the legal process or that he abuses the concession granted to him in any manner. The Court is required to be satisfied on the basis of material placed on record regarding existence of such circumstances, or if there is likelihood of the accused to be absconding, then also bail can be cancelled. Neither of these circumstances have been made out. Even otherwise, there is no material on record which would justify cancellation of bail granted to the petitioner and to deprive his liberty. The settled law is that in fact there has to be very cogent and overwhelming circumstance for directing cancellation of bail, already granted.

In this background, this Court does not find any



ground for cancellation of bail, granted to Opposite Party No 2
(Appellant Chotu Yadav of Cr Appeal (SJ) No 1324 of 2021).

This application is dismissed.

(Madhuresh Prasad, J)

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