

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34666 of 2021

Arising Out of PS. Case No.-3 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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THE UNION OF INDIA THROUGH DHIRAJ KUMAR INTELLIGENCE
OFFICER NARCOTICS CONTROL BUREAU PATNA ZONE UNIT,
PATNA, BIHAR

... .. Petitioner/s

Versus

MAHENDRA SAW S/o Late Sita Ram Saw R/o village- Kala Diara, P.S.-
Salimpur, District- Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Anurag Singh, Adv.

For the Opposite Party/s : Mr. Jay Ram Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

9 09-02-2022 Heard Mr. Ram Anurag Singh, learned counsel for

the petitioner and Mr. Jay Ram Prasad, learned counsel

appearing for Opposite Party.

2. The petitioner/ Narcotics Control Bureau, Patna
has filed the present application for cancellation of bail granted
to Opposite Party by this Court in Cr. Misc. No. 670/2020 *vide*
order dated 15.06.2020 on the ground advanced by the learned
counsel for the petitioner/NCB that the confessional statement
of the Opposite Party has been recorded by the NCB under
Section 67 of the NDPS Act in which the he has accepted his
involvement. The statement of the Opposite Party has been
annexed at Annexure-2 of the supplementary affidavit and



except this, no other ground has been placed by the learned counsel for the petitioner/NCB for cancellation of bail.

3. Learned counsel appearing for Opposite Party submits that the Court had granted bail to the Opposite Party after framing of charge on the ground of period of custody and further that he had no criminal antecedent and after being satisfied that the Opposite Party was not likely to commit any offence. It has further been submitted that Opposite Party was released on bail after framing of charge on 08.11.2020 but since then no witness has been examined by the prosecution and instead the prosecution has filed the present application for cancellation of bail. He next submits that in a recent judgment passed by Hon'ble Apex Court in the case of *Tofan Singh v. The State of Tamil Nadu* as reported in (2021) 4 SCC 1, it has been held that confessional statement recorded under Section 67 of the NDPS Act is not admissible in evidence.

4. Having heard learned counsel for the parties and taking into consideration the fact that the Opposite Party has not misused the privilege of bail and has got no criminal antecedent and the as per the judgment of the Hon'ble Apex Court (*supra*) the statement of the accused recorded under Section 67 of the NDPS Act is not admissible in evidence. Accordingly, I am of



the opinion that the bail granted to the Opposite Party is not fit to be cancelled. As such, this application for cancellation of bail stands dismissed.

(Anil Kumar Sinha, J)

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