

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4058 of 2021

Arising Out of PS. Case No.-16 Year-2020 Thana- SC/ST District- Aurangabad

Narendra Kumar Son of Sarjun Ram R/o Village-Basdiha Khurd, P.S.- Kesar,
Dsitt- Aurangabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ruchi Kumari Daughter of Yogendra Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
3. Vikash Pathak S/o Yogendra Pathal Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
4. Subhas Pathak Son of Yogendra Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
5. Dhananjay Pathak Son of Yogendra Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
6. Amarjeet Chandravanshi Son of Kapil Chandravanshi Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
7. Chhotu Kumar Son of Bhaglu Chandravanshi Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
8. Vikram Kumar Son of Santosh Chandravanshi Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
9. Suraj Pathak Son of Ajay Chandravanshi Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
10. Sujit Pathak S/o Satyendra Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
11. Ranjit Pathak S/o Satyendra Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.
12. Rakesh Kumar @ Rakesh Pathak Son of Prakash Pathak Resident of Village- Basdiha Khurd, P.S.- Kesar, Distt- Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pranav Kumar
For the Respondent/s : Ms.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH



ORAL ORDER

2 23-02-2022 Heard counsel for the parties.

The present appeal has been filed under Section 14A(2) of SC/ST (Prevention of Atrocities) Act for setting aside the order dated 01.12.2020 passed by 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Aurangabad in BP No. 745/2020 arising out of SC/ST PS Case No. 16 of 2020 instituted for the offences under Section 307 and other allied sections of the Indian Penal Code and sections 3(i), (r), (s), (w) (i)/3(2),(va), (v) of the SC/ST Act whereby and whereunder the Opposite party nos. 2 to 12 have been allowed bail.

Brief facts giving rise to instant appeal are that petitioner/informant submitted a written report to the effect that on 26.05.2020 at about 7.30 am when the informant was washing his face at the door, all the accused persons named in the FIR carrying weapons in their hands started abusing by taking his caste name and on protest, they entered inside the house dragged the petitioner/informant and assaulted him. it is further alleged that when family members came to rescue the petitioner/informant, they were also assaulted by the accused persons.

From the record it appears that after considering the submissions advanced on behalf of the parties and materials



available on record the trial court was pleased to release on bail OP nos. 2 to 12 vide order dated 01.12.2020.

The petitioner who is informant of the case through this petition has sought cancellation of bail granted to OP nos. 2 to 12 primarily on two grounds. Firstly, they obtained bail without disclosing the fact that anticipatory bail application was pending in the High Court. Secondly, on the ground that wrong facts were pleaded by OPs in their petition about the marriage of their daughter and death of someone in family.

There is gulf of difference between cancellation of bail and grant of bail. It is well settled that cancellation involves review of a decision already made and can by and large be permitted only if by reasons of supervening circumstances it would no longer be conducive to a fair trial to allow the accused to retain his freedom during the trial.

In the instant case in view of the materials available on record as well as arguments advanced in support thereof, no case is made out for cancellation of bail granted to OP nos. 2 to 12. The instant appeal has been filed on misconceived grounds. Every non-disclosure of fact does not amount to material suppression. Only those facts which can have bearing on the outcome of the case can be said to be material facts. In this case



OPs were granted bail on their surrender cum bail application and as such non-mentioning of pending anticipatory bail before High Court was not material suppression. Similarly on the basis of certificate issued by *Sarpanch* of the Gram Panchayat the facts stated by the OPs about the marriage of their daughter cannot be said to be false and incorrect.

Considering the aforesaid facts and circumstances of the case, this court is of the opinion that no case has been made out by the petitioner/informant to interfere the impugned order. There is no averment in the petition or argued on behalf of petitioner that after grant of bail OPs have interfered or attempted to interfere with the due course of administration of justice or tampered the evidence and witnesses or evaded or attempted to evade the due course of justice or abused the concession granted to him or any such overwhelming or supervening circumstances has arisen, which has rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. In absence of such compelling and substantial reasons, there is no occasion for this Court to cancel the bail already granted to the OP nos. 2 to 12 as referred above.

Accordingly, this bail application is dismissed for



being devoid of merit.

(Prabhat Kumar Singh, J)

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