

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8985 of 2023

Arising Out of PS. Case No.-21 Year-2022 Thana- LODIPUR District- Bhagalpur

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Pritam Kumar Mishra, Son of Vibhash Chandra Mishra, Resident of Village-
Bajjani, P.S.- Bypass T.O.P., District- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Deepak Kumar Mishra, Son of Shankar Prasad Mishra, Resident of Village-
Bajjani, P.S.- Bypass, District- Bhagalpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shyam Kishore, Advoate
For the Informant	:	Mr. Rishi Sinha, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

2 15-02-2023 Heard learned counsel for the parties.

This is an application for cancellation of bail granted to the Opposite Party Nos. 2 vide order dated 23.12.2022 passed in Cr. Misc. No. 53731 of 2022 in connection with Lodipur P.S. Case No. 21 of 2022.

Learned counsel for the informant submits that the impugned bail order has been passed without hearing the informant and also on wrong submissions that petitioner is suffering from mental illness, however, petitioner has sound mind.

Learned APP for the State submits that he was heard on the bail petition filed by the petitioner and after hearing him



the impugned order has been passed.

Learned counsel for the informant relied on the judgment of **Subodh Kumar Yadav vs. State of Bihar and Ors. reported in AIR 2010 SC 802**, particularly, paragraph 9 of the judgment and submits that the superior court has the power to cancel bail if the court granting bail as acted on irrelevant material or the non-application of mind or failed to take note of any statutory bar to grant bail.

The Hon'ble Supreme Court in **State through Delhi Administration vs. Sanjay Gandhi (AIR 1978 SC 961)** has considered as to when and in that circumstances bail maybe cancelled and it has been held “ Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another thing. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervising circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

Further, the **Hon'ble Apex Court in Bhuri Bai vs. The State of Madhya Pradesh (Criminal Appeal No. 1972 of**



2022) has held that as follows:-

“19. It remains trite that normally, very cogent and overwhelming circumstances or grounds are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervising event is made out, an order granting bail is not to be lightly interfered with under Section 439 (2) Cr.P.C.”

On perusal of the bail order dated 23.12.2022, I did not find any material for cancellation of the bail. There is no material to show, that the Court acted upon irrelevant material and that after being released on bail, the accused had abused his liberty and had attempted to temper with the prosecution evidence. In view of facts and circumstances of the case and absence of compelling and substantial reasons, the present application for cancellation of bail is hereby rejected.

(Sunil Dutta Mishra, J)

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