

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30675 of 2023

Arising Out of PS. Case No.-659 Year-2018 Thana- SAHARSA SADAR District- Saharsa

Purushottam Kumar Singh, Son Of Sri Madan Prasad Singh, Resident of
Santnagar, Ward No 15, P.S. & District Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. Binod Kumar Singh, Son of Late Shaligram Singh Resident Of Village-
Gangjala Tiranga Chowk, Ward No. 15 , P.S & District- Saharasa

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar Prasad Singh, Advocate
For the O.P. No.	:	Mr. Shekhar Kumar Singh, Advocate
For the State	:	Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

15 21-06-2024

Heard the parties.

2. This is an application for cancellation of bail granted to the Opposite party no.2 vide order dated 10.10.2022 passed in Cri. Misc. No. 39893 of 2022 preferred by the O.P. No.2.

3. The opposite party no.2 is an accused in Saharsa Sadar P.S. Case No. 659 of 2018 registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code and Section 138 of Negotiable Instrument Act, 1981.

4. Mr. Diwakar Prasad Singh, learned counsel appearing for the petitioner submits that the instant petition has been filed as the action of O.P. No.2 amounts to disobedience



and contempt of the order passed by this court on 03.03.2020 in Cr. Misc. No. 54004 of 2019 by which the opposite party no.2 was directed to surrender before the learned trial court at once but he never surrendered before the trial court so he was arrested by the police on 15.04.2022 after almost two years. The opposite party no. 2 succeeded in getting the relief for provisional bail vide order dated 27.11.2019 in Cr. Misc. 54004 of 2019 on the ground that he showed his willingness to settle the dispute with the petitioner but the O.P. no. 2 neither took any attempt to settle the dispute nor surrendered, after one month, after expiry of provisional bail period, nor got the provisional bail extended and in the result, vide order dated 03.03.2020 passed in Cr. Misc. No. 54004 of 2019 the relief of provisional bail granted to the O.P. No. 2 was recalled and he was directed to surrender before the trial court at once but he did not comply with the said direction. Learned counsel further submits that the O.P. No. 2 has misappropriated the petitioner's hard earned money amounting Rs. 12,40,000/- and on the pretext to return the said money, he issued two cheques in favour of the petitioner but they were dishonored due to insufficient fund in the bank account of O.P. No.2 and accordingly, the O.P. no. 2 cheated the petitioner and also committed an offence under



Section 138 of N.I. Act . It is further submitted that the O.P. no.2 obtained bail from this court in Cr. Misc. No. 39893 of 2022 by enclosing incomplete complaint without chief-examination and the informant (petitioner) could not appear at the time of hearing of the Cr. Misc. 39893 of 2022 as such entire facts stand in favour of the petitioner were not placed before this court in course of hearing. It is further submitted that the O.P. no. 2 approached this court by way of Cr. Writ No. 1357 of 2019 for quashing of the FIR lodged against him by the petitioner and the same was rejected vide order dated 14.03.2024.

5. On the contrary, Mr. Shekhar Kumar Singh, learned counsel appearing for the O.P. No.2 submits that after getting the privilege of bail the O.P. No. 2 has never misused the privilege and never suppressed the relevant or important facts regarding the alleged offences and while granting the relief of bail to the O.P. No. 2, this court considered all the facts which have been narrated by the petitioner in his petition and after considering the custody period of the O.P. no.2, nature of offence and slowness of the prosecution in concluding the trial the relief of bail was granted to O.P. no. 2, hence there is no force in the present petition and the same is liable to be dismissed.



6. Heard both the sides and perused the materials available before this court. The O.P. no. 2 was granted bail mainly considering his custody period, the stage of his case, the slowness of the prosecution in concluding the trial of the O.P. no.2 and this court also took into account all the relevant facts which were submitted by both the sides concerning to the main grounds taken by the petitioner in the present petition. From the perusal of the grounds and facts mentioned in the petition, I find no material to show that the O.P. no.2 intentionally suppressed any relevant fact while pressing his bail prayer in Cr. Misc. No. 39893 of 2022 and the petitioner has not brought any material to show that the O.P. no.2 has misused the privilege of bail after getting the said relief.

7. Hon'ble Apex Court in the Case of ***Daulat Ram and Others Vs. State of Haryana*** reported in (1995) 1 SCC 349 observed that:

“ the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on



the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have 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.”

8. The above principles have been reiterated in the case of *X vs. State of Telengana and Another* by the Hon’ble Apex Court reported in *(2018) 16 SCC 511*. The petitioner has not shown any material with support of sufficient evidence to attract any of the above grounds for cancellation of the bail and this court is not persuaded to accept the prayer of the petitioner.

9. Accordingly, this court finds no merit in this case, so it stands dismissed.

(Shailendra Singh, J)

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