

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.356 of 2023

Arising Out of PS. Case No.-124 Year-2019 Thana- COMPLAINT CASE District- Lakhisarai

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Kshitij Bhardwaj @ Sonu Kumar Son Of Late Chandra Mohan Prasad Singh
@ Dipak Kumar Singh, Resident Of Vill.-Walipur, P.S.-Pipariya, Dist-
Lakhisarai, P/A-Resident Of- Krishna-Arjun Bhawan, Lallu Pokhar, P.O.-
Munger, P.S.-Kasim Bazaar, Dist-Munger, Bihar-811201

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manju Singh W/o Gopal Prasad @ Brajmohan Pd. Singh, R/o vill - Walipur,
P.S. - Pipariya, Distt. - Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Deo Prakash Singh, Advocate
For the O.P. No. 2	:	Ms. Roona, Advocate
For the Respondent/s	:	Mr. Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

14 16-04-2025 The petitioner is the buyer of a piece of land originally belongs to the complainant and others. On the allegation that the petitioner executed a forged deed in respect of the transfer of the said land. The complainant/opposite party lodged a complaint before the learned Judicial Magistrate, Lakhisarai for the offence under Sections 420/467/468/471/120B of the IPC. Initially, the petitioner did not appear before the trial court on the ground that the complaint was filed within the period of COVID Pandemic. Be that as it may. The warrant of arrest was issued against the petitioner. Subsequently, a process under Section 82 of the CrPC



was also initiated by the learned Judicial Magistrate, Lakhisarai in order to compel petitioner's appearance. Even then, he did not appear.

2. On the contrary, the petitioner moved to Hon'ble Supreme Court in SLP (CRL) No. 1256 of 2023 which was disposed of vide order dated 06th February 2023 with the following direction:-

“Learned Counsel appearing for the petitioner states that the petitioner will appear before the concerned Court and will apply for cancellation of warrant.

If the petitioner appears and applies for cancellation of warrant within a period of two weeks from today, the application shall be decided as expeditiously as possible. The warrant shall not be executed against the petitioner for a period of four weeks from today.

The special leave petition is disposed of.

All pending applications are also disposed of.”

3. In compliance of the said order, the petitioner surrendered before the trial court on 13.02.2023, along with the petition praying for cancellation of bail. The said application was disposed of on 25th February 2023 by the learned Judicial Magistrate, holding, *inter alia*, that the petition dated 13th February 2023 had no merit and the same was rejected.



4. While rejecting the said application, the learned Magistrate observed that previously the application for anticipatory bail filed by the petitioner was rejected by the learned Sessions Judge, Lakhisarai as well as by this Court and there is a specific allegation of false signature taken in the sale deed while the daughter of the complainant was in London during that period. It is contended on behalf of the petitioner that the learned Judicial Magistrate failed to take into consideration the spirit of the order passed by the Hon'ble Apex Court and wrongly rejected the prayer for cancellation of warrant issued against him.

5. The learned Advocate on behalf of the opposite party/complainant on the other hand, supports the order dated 25th February, 2023 on the ground that the complainant made out a case of illegal land grabbing by executing a false deed of sale on the basis of forged signature of the daughter of the complainant. On the date of execution of the alleged sale deed, she was in England, therefore, it was not possible for her to put her signature on the said sale deed. It is submitted that the specific allegation against the petitioner/accused was held by the learned Magistrate to be an offense under Sections 420/467/468/471/120B of the IPC and considering the



seriousness of the case, the prayer for cancellation of warrant was rejected.

6. Having heard the learned Advocates on behalf of the parties at length, this Court records at the outset that at the instance of the complainant, a complaint case being 124(c)/2019 is registered against the petitioner. The learned Magistrate took cognizance of the offence on the basis of initial statement and examination of the complainant and witnesses under Section 200 of the CrPC. Summons were issued initially against the accused/petitioner but he did not appear pursuant to the summons. Therefore, warrant of arrest was issued against him. The petitioner prayed for cancellation of warrant upon rejection of the said application. The petitioner moved before the Hon'ble Supreme Court. The Hon'ble Supreme Court directed the learned Magistrate to dispose of the application for cancellation of warrant forthwith and in the meantime execution of warrant was stayed for a period of four weeks.

7. The learned Magistrate did not consider that the petitioner filed the application for cancellation of bail upon due surrender, therefore, when the petitioner surrendered before the trial court and submitted to the jurisdiction of the learned Magistrate, the warrant of arrest ought to be cancelled and his



prayer for bail should be considered applying the golden rule of bail jurisprudence that bail is the rule and jail is an exception.

8. For the reasons stated above, I cannot agree that with the impugned order dated 25th February 2023. The impugned order dated 25th February, 2023 is therefore, set-aside. The revisional application is allowed. The petitioner is directed to surrender himself before the trial court within two weeks from the date of this order along with a fresh application of cancellation of warrant. The learned Magistrate is directed to dispose of the same within two weeks from the date of filing of such application considering the fact that the petitioner would submit to the jurisdiction of the learned Magistrate to face trial.

9. With the above direction, the instant criminal revision is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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