

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48597 of 2024

Arising Out of PS. Case No.-50 Year-1993 Thana- TEKARI District- Gaya

Upendra Yadav @ Pramod Prasad Son of Anantlal Verma Resident of
Mohalla- Magadh Colony, Road No. 4, Near Pond, P.S.- Gaya Town, Dist.-
Gaya

... .. Petitioner/s

Versus

The State of Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 18-04-2025 Heard the parties.

2. The present petition has been preferred:

for cancellation of bail of the opposite party
no.2 granted vide an order dated 29.08.2023
in Cr. Misc. No. 56611 of 2023.

3. The matter relates to Tekari P.S. No. 50 of 1993 and the allegation is that to verify the bail bond in a case no. 4453 of 1992 under section 107 of the Cr.P.C. came to notice that the bailors never signed the bail bond and the signatures were forged. This led to the FIR.

4. The opposite party no.2 with the passage of time turned old, good sense prevailed upon him, went into judicial custody whereafter, filed Cr. Misc. No. 56611 of 2023.



5. It was heard by this Court on 29.08.2023 and considering his age as also the custody period (02.04.2023), bail was granted with conditions that he shall be diligently appearing in trial and shall not threaten the witnesses. This order was passed considering the fact that the matter is of the year 1993 and needs to be concluded at an earliest.

6. He thereafter, preferred appropriate petition before the learned Trial Court for cancellation of the bail bond of the opposite party no.2. On 31.01.2024, the matter was taken up and the learned Trial Court passed the following order:

“Record is put up for order on petition dated 01.11 2023 filed by the informant and prosecution for cancellation of bail bond of accused Arjun Prasad and its rejoinder dated 23.01.2024. Accused Arjun Prasad is in attendance.

The petitioner in his petition has stated that in this case the testimony of PW-I has been stopped on 18.10.2023 though the informant had given time application for testimony. He has further stated that on 18.10.2023, the



accused of this case has threatened the Informant with death and assaulted him and said that "If you testify today, you will be arrested". As a result, the informant succumbed to this pressure and was not mentally prepared to testify and could not appear in the court and accordingly the evidence of prosecution was closed on 18.10.2023. He has also stated that in the Criminal Misc Case No. 56611/23 dated 29.08.2023 of the Honourable High Court of Patna, "the accused had given an undertaking that the petitioner shall in no way induce or promise or threaten the witness or tamper with the evidence failing which the state shall be at liberty to take steps for cancellation of his bail bonds." He has further stated that in the light of the order of the Hon'ble High Court of Patna, it is necessary to cancel the bail bond, otherwise the order of the



Hon'ble High Court will be considered as contempt. The petitioner has then prayed to cancel bail bond of accused Arjun Prasad in the light of the order of Cri. Mis. Case No-56611/23 of the Hon'ble High Court and in the light of the undertaking affidavit given by accused Arjun Prasad to the court on 23.09 2023

The accused Arjun Prasad in his rejoinder has stated that the petition for cancellation of bail bond of accused Arjun Yadav filed on behalf of the informant is fit to be dismissed in the eve of law as well as fact. He has further stated that the statement of informant in para 2 of the petition is totally false and fabricated and without any cogent evidence and that it has been filed to linger the case. He has further stated that the accused Arjun Prasad is an old man and he can in no



way induce or promise or threat the witnesses or tamper with the evidence. He has then prayed to reject the aforesaid petition dated 01.11.23 for the ends of justice

Heard Ld. APO and Ld. counsel of the accused Arjun Prasad and perused the case record. On perusal it appears that on 20.09.23 vide the order of this court PW-1 Upendra Yadav was directed to appear for cross examination. That thereafter on several dates the PW-1 did not appear and the prosecution evidence was closed on 18.10.23. On 01.11.2023 itself another petition u/s 311 CrPC is also filed by the informant for recalling of witnesses and for the first time the allegations as leveled against the accused Arjun Prasad is brought on record. Further the accused Arjun Prasad Yadav is an old man, aged 70 years and it is unlikely that a



man of his age could do the alleged acts.

*Considering the aforesaid facts and circumstance, this court deems that the allegations leveled against the accused Arjun Prasad appears to be unfounded and baseless. Accordingly, **the petition dated 01.11 2023 of the informant for cancellation of bail is hereby rejected.***

Further accused Arjun Prasad is directed to file rejoinder to petition dated 01.11. 23 u/s 331 CrPC. Put up on 01.02.24”

7. The informant who is himself is a Lawyer has now filed the petition for cancellation of bail on two grounds:

(i) the opposite party no.2 is not diligently appearing in trial;

(ii) he threatened/abused the petitioner which led to the lodging of the FIR of Gaya Sadar P.S. Case No. 678 of 2023.

8. Learned counsel for the petitioner submits that the opposite party no.2 having violated the two conditions of the



High Court, certainly, after issuance of notice, his bail bonds need to be cancelled. He has again taken to this Court to the FIR lodged in this connection.

9. Learned APP, Mr. Jitendra Kumar Singh on the other hand opposes the prayer submitting that after having filed the petition for cancellation of bail which has been rejected by the reasoned order, he is debarred from filing of the second application for cancellation of the bail bond.

10. He further submits that the reasoned order clearly shows that it was only due to closure of the evidence after the petitioner repeatedly failed to appear before the Trial Court that necessitated the present filing of the cancellation of bail bond. The purpose of the petitioner is only to delay the trial for the reasons best known to him despite the fact that he himself is a Lawyer.

11. It is his further submission that a bare perusal of the learned Trial Court's order would show that on several dates, the petitioner failed to appear and in that circumstance, on 18.10.2023, the prosecution evidence was closed whereafter on 01.11.2023, the petitioner preferred petition under section 311 of the Cr.P.C. for recalling of the witnesses where for the first time, he made allegation against the opposite party no.2.



12. In that background, having found the same to be unfounded and baseless, it was rejected, as stated above on 13.1.2024.

13. The entire facts have been recorded, certainly the petitioner who is the Lawyer, as informed by the learned counsel representing him, is misusing the law. Not only he is trying to delay the trial which is of the year 1993, chose not to appear on the dates fixed for hearing, at belated stage, filed a petition under section 311 of the Cr.P.C. for recalling of the witnesses where he came out with the allegation. There is FIR and the Police will take appropriate action in the matter but certainly that cannot be a case for cancellation of bail bond.

14. The petition stands rejected with a cost of Rs.1000/- to be deposited with the District legal Services Authority, Gaya for purchase of flower pots with saplings for the Civil Court Campus.

(Rajiv Roy, J)

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