

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86726 of 2024

Arising Out of PS. Case No.-116 Year-2022 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Md. Mintullah @ Mintullah Rain S/o- Md. Kasim @ Md. Kasim Rain
Village- Brahmpur PS-Phulparas District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Md. Idrish @ Md. Idrish Rain S/o- Md. Thakai Village- Brahampurra Ps-
Phulparas Dist-Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Udeshya Kumar Yadav, Advocate.
For the State	:	Mr. Ram Anurag Singh, APP.
For the O.P. No.2	:	Mr. Subhash Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

8 08-08-2025 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. This application has been filed for cancellation of anticipatory bail granted to the O.P. No.2 vide order dated 14.08.2024 passed by this Court in Cr. Misc. No.49576 of 2024 in connection with Complaint Case No.116 of 2022 arising out of Phulparash P.S. Case No.192 of 2022 for the offences registered under Sections 363, 366(A) of the Indian Penal Code and Section 8 of POCSO Act.

3. Learned counsel for the petitioner submits that the opposite party no.2 got privilege of anticipatory bail by concealing his criminal antecedents. He submits that opposite



party no.2 was involved in two criminal cases i.e. (1) Phulparas P.S. Case No.13 of 1979, G.R. No.470 registered under Section 302 and other allied sections of the I.P.C.; (2) Phulparas P.S. No.369 of 2021 registered under Sections 448, 379, 427, 504, 506/34 of the I.P.C. Learned counsel submits that the opposite party no.2 had not come with clean hands, therefore, the anticipatory bail earlier granted to the opposite party no.2 by this Court may be cancelled.

4. Learned counsel for the opposite party no.2 submits that the opposite party no.2 did not deliberately conceal the facts with regard to his criminal antecedents as in Phulparas P.S. Case No.13 of 1979, the opposite party no.2 was convicted and thereafter he filed Cr. Appeal (D/B) No.808 of 2004 before this Hon'ble Court and during that period he had no connection with his counsel regarding the status of the appeal. So far as Phulparas P.S. Case No.369 of 2021 is concerned, learned counsel for the opposite party no.2 submits that police had already filed final form against him. He further submits that if there is any latches on the part of opposite party no.2, he tenders his great apology for the same.

5. While granting bail to an accused, the Court also take into consideration the criminal history of the accused. The



criminal antecedent of an accused though always not determinative of question whether bail is to be granted or not, yet there relevance cannot be totally ignored. It is to be ensured that the accused does not obstruct the course of justice by tempering with evidence, influencing witnesses, or evading trial.

6. The O.P. No.2 has explained for not disclosing his criminal antecedents. It has been stated by the O.P. No. 2 that such disclosure was not made in furtherance of ignorance since one of the matters i.e. Phulparash P.S. Case No. 13 of 1979 wherein he has been allegedly involved is at the stage of appeal and is yet to be decided. In other case i.e. Phulparash P.S. Case No. 369 of 2021, the police has filed final form before the concerned Court but there has been no development in the further proceedings. In view thereof, it can be said that the alleged concealment of antecedents by the O.P. No. 2 is not *malafide*.

7. It is well settled that cancellation of bail after it is granted is in a different compartment altogether than an order granting bail. The determination of whether a case is fit for the grant of bail involves numerous factors, among which the nature of offence, the severity of the punishment and a *prima facie* view of the involvement of the accused are important.



Cancellation of bail necessarily involves review of a decision already made and can, by and large, be permitted only, if, by reason of supervening circumstances.

8. An application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom the bail has been granted. The petitioner has not pleaded that the accused has breached the bail condition.

9. Having considered the facts and circumstances of the case as well as the submissions made on behalf of the parties, this Court finds no merit for entertaining the cancellation of anticipatory bail petition of the opposite party no.2, Accordingly, the prayer for cancellation of anticipatory bail of the opposite party no.2 is dismissed.

(Sunil Dutta Mishra, J)

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