

C.R.M. (DB) No. 777 of 2024

with

C.R.M. (DB) No. 779 of 2024

In Re: - An application for cancellation of bail under Section 439(2) of Criminal Procedure in connection with Goalpokher P.S. Case No.616 of 2023 dated 04.11.2023, under Sections 341/323/325/326/307/506/34 of Indian Penal Code.

In the matter of : Sahanaj Begam @ Shahnaaz Begum

Mr. Niladri Sekhar Ghosh
Mr. M. Nazar Chowdhury
Ms. Priyanka Saha
....for the Petitioner

Mr. Arnab Chatterjee
Mrs. Manasi Roy
... for the State

Mr. Ansuman Chakraborty
Mr. S. Alam
... for private respondent

1. Two applications for cancellation of bail are taken up for analogous hearing as emanate out of same police station.
2. Petitioner seeks cancellation of bail granted by the Jurisdictional Court.
3. Learned counsel appearing for the petitioner refers to the order granting bail. He submits that the materials in the case diary as against the private respondent were not considered. Private respondent was involved in murder. Offending weapon was recovered from the possession of the private respondent. These factors were not taken into consideration by Jurisdictional Court while granting bail.
4. Learned counsel appearing for the petitioner relies upon **(2001) 6 Supreme Court Cases 338 Puran vs. Rambilas and Another**. In

support of his contention that perversity of the order granting bail can be looked into by the High Court.

5. State and Private Respondent are represented.
6. Learned counsel appearing for the State relies upon **(2024) 4 Supreme Court Cases 222 Himanshu Sharma vs. State of Madhya Pradesh** and **1999 SCC OnLine SC 205 Subhedu Mishra vs. Subrat Kumar Mishra and Another** for the proposition that, there is no post bail misconduct by the private respondent.
7. We perused the material in the case diary.
8. Police filed charge sheet. There are statements recorded under Section 164 of Code of Criminal Procedure of injured persons.
9. An incident of assault took place where a person after suffering injuries succumbed to the same. Police subsequently added Section 302 of the Indian Penal Code in the police case and filed charge sheet *inter alia* thereunder.
10. Jurisdictional Court granted bail to the private respondent on the ground that ten of the accused persons were absconding at that material point of time and that there was no possibility of early commitment.
11. Materials in the case diary including statement recorded under Section 164 of Code of Criminal Procedure do not ascribe any active role so far as the petitioner is concerned. Petitioner is found to be present at the place of occurrence at the time of occurrence. **Puran (supra)** is of the view that a bail granted by the Jurisdictional Court can be cancelled if such order was passed by ignoring material evidence on record and was passed without reason.
12. **Himanshu Sharma (supra)** was rendered in a fact scenario where an application for cancellation of bail was filed with regard to an

order passed by the High Court. In such context, it was held that, bail so granted can be cancelled if the accused misused the liberty or flouted the conditions of the bail or the bail was granted by ignoring statutory provisions restricting a power of the Court to grant bail or the bail was procured by misrepresentation or fraud. None of the four causes are available to the petitioner in the facts and circumstances of the present case.

13. In *Subhedu Mishra (supra)* the Supreme Court noted that, more cogent and overwhelming circumstances are necessary for an order directing cancellation of bail already granted. This was noted from the earlier judgement of the Supreme Court rendered in *(1995)1 Supreme Court Cases 349 Dolat Ram and Others vs. State of Haryana*.

14. Materials placed on record do not ascribe a specific role so far as the private respondent is concerned. No compelling ground to cancel the bail granted stands made out.

15. In such circumstances, we are not minded to cancel the bail granted to the private respondent.

16. C.R.M (DB) 777 of 2024 and C.R.M (DB) 779 of 2024, are accordingly dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)