

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7161 of 2022

Arising Out of PS. Case No.-18 Year-2020 Thana- MAHILA P.S. District- Patna

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Nimisha Kumari Daughter Of Late Manoj Kumar Resident Of Village -
Nayatola, Zurabganj, Police Station - Korha, District - Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ashish Kumar Son Of Biren Yadav Resident Of Village - Zurabganj, Police
Station - Korha, District - Katihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Sinha

For the Opposite Party/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 24-07-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present application has been preferred seeking
cancellation of bail granted to Opposite Party No. 2 by order
dated 05.10.2021 passed by the learned Special Judge, S.C./S.T.
Act, Patna in Special Case No. 29 of 2020, arising out of Mahila
P.S. Case No. 18 of 2020. By the impugned order, Opposite
Party No. 2 was permitted to continue on the bail bonds earlier
furnished pursuant to the order dated 17.08.2020, whereby he
had been granted provisional bail till conclusion of the
investigation.

3. The learned counsel for the petitioner submits that



the impugned orders granting and thereafter continuing the bail of Opposite Party No. 2 are legally unsustainable. The initial order dated 17.08.2020 granting bail was passed during the pendency of investigation without the case diary of Mahila P.S. Case No. 18 of 2020 being available before the learned Special Judge, S.C./S.T. Act. Subsequently, after submission of the charge-sheet on 26.09.2020, the learned court, by order dated 05.10.2021, mechanically permitted Opposite Party No. 2 to continue on the earlier bail bonds without independently considering the materials collected during investigation or assigning any reasons justifying such continuation.

4. It is further submitted that the court below also failed to consider vital incriminating materials collected during investigation, including WhatsApp conversation transcripts between the parties from 18.10.2019 to 21.12.2019, which contradicted the plea of Opposite Party No. 2 that there was no evidence of communication, as well as the video footage showing his entry with the petitioner into his Air Force residential quarters at Bihta, which substantially corroborated the prosecution case.

5. It is further submitted that Opposite Party No. 2 has not approached the Court with clean hands and has concealed



material facts regarding his caste status. The petitioner has relied upon the communication dated 15.12.2020 issued by the Circle Officer, Korha, under the Right to Information Act, which shows that while Opposite Party No. 2 had applied for a caste certificate claiming to belong to the Banjara community, his real brother, Rajdeep Yadav, son of the same father, Biren Yadav, had already been issued a caste certificate showing him to belong to the Yadav (OBC) community. The Circle Officer also observed that two sons of the same father claiming caste certificates under different categories was not proper. It is, therefore, submitted that these facts, along with the serious allegation that Opposite Party No. 2 repeatedly had sexual intercourse with the petitioner on the false promise of marriage, show that the learned court below continued the bail without properly considering the evidence collected during investigation and the gravity of the allegations, thereby warranting interference by this Court.

6. Having considered the submissions advanced and perused the materials available on record, this Court is of the considered view that the grounds urged by the petitioner essentially assail the correctness of the original order granting or continuing bail and the manner in which the investigation was



conducted. However, it is well settled that cancellation of bail stands on a different footing from rejection of bail. Unless subsequent events disclose misuse of the liberty granted, violation of the conditions of bail, interference with the course of justice, tampering with evidence, influencing witnesses, or other supervening circumstances rendering the continuance of bail prejudicial to a fair trial, the extraordinary power of cancellation of bail ought not to be exercised.

7. In the present case, no material has been brought on record to demonstrate that after being enlarged on bail, Opposite Party No. 2 has misused the privilege of bail, violated any condition imposed by the court, attempted to tamper with evidence, influenced witnesses, or otherwise obstructed the due course of justice. The contentions raised by the petitioner pertain primarily to the merits of the prosecution case and the legality of the orders granting and continuing bail, which, by themselves, do not constitute sufficient grounds for cancellation of bail in the absence of any supervening circumstance.

8. Accordingly, finding no ground warranting interference with the impugned order dated 05.10.2021, the present application is dismissed.

9. However, considering the nature of the allegations



and the fact that the criminal prosecution has remained pending for a considerable period, the learned Trial Court is directed to expedite the trial and make all endeavour to conclude the same as expeditiously as possible, preferably within a period of six months from the date of receipt/production of a copy of this order, without granting unnecessary adjournments to either party.

10. Let a copy of this order be communicated to the learned Principal District & Sessions Judge, Patna through FAX/e-mail for information and necessary compliance.

(Sandeep Kumar, J)

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