

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.550 of 2025**

Arising Out of PS. Case No.-568 Year-2022 Thana- FATEHPUR District- Gaya

Vikram Manjhi S/O Babu Manjhi @ Sarju Manjhi R/O Village- Kosumhar,
P.S - Fatehpur, District- Gaya.

... .. Appellant

Versus

1. The State of Bihar
2. Parmanand Paswan S/o Late Baleshwar Paswan R/o vill- Chapri, P.S.-
Fatehpur, Distt.- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sharda Nand Mishra, Advocate

For the Respondent/s : Ms.Usha Kumari 1, S.P.P.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

10 12-02-2026 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State and perused the report
dated 01.12.2025 of Exclusive Special Judge, SC/ST (POA)
Act, Gaya.

2. The instant appeal has been filed by the appellant
against the order dated 14.08.2024 passed by Exclusive Special
Judge, SC/ST (POA) Act, Gaya, whereby the prayer for grant of
bail of the appellant in connection with Fatehpur P.S. Case No.
568 of 2022, under Sections 341, 323, 504, 506 of the Indian
Penal Code and u/s 3(i)(r)(s) of SC/ST (POA) Act, wherein
upon completion of investigation, Chargesheet was submitted
u/s 376-D, 341, 323, 504, 506 and 307 of the Indian Penal Code



read with Section 3(i)(r)(s)(w)(i) of SC/ST Act, was rejected.

3. Prosecution case, in short, is that on 11.09.2022 at about 4.00 A.M. while daughter of the informant had gone to attend call of nature, in the meantime, Appellant along with other co-accused forcibly assaulted her and they committed gang rape with her. In course of the said incident, appellant and other co-accused gagged her mouth resultantly, she sustained injury and bleeding started from her mouth.

4. Learned counsel for the appellant submits that earlier the appellant was granted regular bail by a co-ordinate Bench of this Court vide order dated 06.07.2023 passed in Criminal Appeal (SJ) No. 849 of 2023. In pursuance of the order dated 06.07.2023, bail bond was furnished on 13.07.2023. The cognizance of the offence was taken against the appellant on 18.10.2023 and summon was issued against the appellant on 13.12.2023 without cancelling the bail bond of the appellant. Thereafter, vide order dated 04.01.2024, bailable warrant of arrest was issued against the appellant on 23.01.2024 and subsequently on 29.01.2024 N.B.W. was issued against the appellant. Police has not submitted service report for which action has also been taken against the Police officer, thereafter, vide order dated 03.04.2024, the record of the appellant has



been split up to the other accused persons. After separating the record of this appellant in S.T. No. 175 of 2024, on 01.06.2024 processes u/s 82 of Cr.P.C. was issued. On 17.07.2024, the appellant surrendered before the learned Court below and prayed for bail, but his prayer was rejected vide impugned order dated 14.08.2024.

5. Learned counsel for the appellant submits that no summons was ever served upon the appellant and no service report was submitted by the police, and therefore he had no knowledge about the order taking cognizance or the dates fixed by the trial court. It is contended that there was no intention whatsoever to misuse the privilege of bail and that cancellation of bail cannot be mechanical or on mere technical grounds. It has further been argued that upon perusal of the records it has transpired that the bail bond furnished pursuant to the earlier order of this Hon'ble Court was never formally cancelled and that the appellant voluntarily surrendered immediately upon gaining knowledge of the non-bailable warrant. Learned counsel places reliance on the judgment of the Hon'ble Supreme Court in ***Daulat Ram v. State of Haryana***, reported in ***(1995) 1 SCC 349 (para 4)***, wherein it has been held that

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted,



have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.”

It has been categorically held that bail once granted should not be cancelled in a routine manner unless there are very cogent and overwhelming circumstances demonstrating misuse of liberty or obstruction of justice, which are completely absent in the present case.

6. Learned Special P.P. for the State has, vehemently, opposed the prayer for grant of bail to the appellant. He further submitted that after investigation I.O of this case has submitted Chargesheet against the appellant and others u/s 341, 323, 504,



506, 307 and 376-D/34 of the Indian Penal Code and u/s 3(1)(r) (s)(w)(i) of SC/ST (POA) Act. On the basis of the Chargesheet against the appellant, cognizance was taken in this case and after taking cognizance, since the appellant was on bail, therefore, his bail bond was cancelled and process u/s 82 of Cr.P.C. and non-bailable warrant of arrest was issued. From perusal of the whole record it appears that the bail bond of the appellant was cancelled on 23.01.2024, but due to clerical mistake the same was not mentioned in the impugned order. He has supported the impugned order and submitted that the appellant remained absent after grant of bail, compelling the court to issue coercive processes, and that Section 376-D of IPC, being a grave and heinous offence, was subsequently added, thereby materially altering the circumstances.

7. Perused the lower court records as well as the impugned order dated 14.08.2024 passed by the learned Exclusive Special Judge, S.C./S.T., Gaya having considered the rival submissions and perused the record, this Court finds that although it is well settled that cancellation of bail stands on a different footing from rejection of bail and liberty once granted should not ordinarily be withdrawn in a mechanical manner, the present case involves significant supervening circumstances.



The principles governing cancellation of bail, now reflected under the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), require that such cancellation must be supported by cogent reasons such as misuse of liberty or other relevant considerations. However, the matter at hand is not one of mechanical cancellation simpliciter but involves reconsideration of bail in light of subsequent developments.

8. It is not in dispute that after the appellant was granted bail by this Court, Section 376-D IPC was added during investigation. The addition of the offence of gang rape substantially changes the gravity and complexion of the case. In this regard, reference may be made to the Judgment of the Hon'ble Supreme Court in the case of ***Pradeep Ram vs. State of Jharkhand & Anr.***, reported in ***(2019) 17 SCC 326***, wherein in paragraph 27 it has been held that

“We may have again to look into the provisions of Sections 437(5) and 439(2) CrPC. Sub-section (5) of Section 437 CrPC uses the expression “if it considers it necessary so to do, direct that such person be arrested and commit him to custody”. Similarly, sub-section (2) of Section 439 CrPC provides: “may direct that any person who has been released on bail under this



Chapter be arrested and commit him to custody". A plain reading of the aforesaid provisions indicates that provision does not mandatorily provide that the court before directing arrest of such accused who has already been granted bail must necessarily cancel his earlier bail. A discretion has been given to the court to pass such orders to direct for such person be arrested and commit him to the custody which direction may be with an order for cancellation of earlier bail or permission to arrest such accused due to addition of graver and non-bailable offences. The two-Judge Bench judgment in Mithabhai Pashabhai Patel[Mithabhai Pashabhai Patelv.State of Gujarat, (2009) 6 SCC 332 : (2009) 2 SCC (Cri) 1047] uses the word "ordinarily" in para 18 of the judgment which cannot be read as that mandatorily bail earlier granted to the accused has to be cancelled before the investigating officer to arrest him due to addition of graver and non-bailable offences."

9. When a person is granted bail for offences initially alleged and subsequently more serious offences are added, it is open to the court to direct that such accused be taken



into custody and require him to apply for bail for the newly added offences, and that the accused cannot claim that the earlier order granting bail ensures to his benefit in respect of the newly added offences as a matter of right. The Apex Court thus clearly laid down that addition of graver offences constitutes a material change in circumstance and the accused cannot insist upon automatic continuation of the earlier bail order.

10. Applying the aforesaid principle to the present case, once Section 376-D of IPC was added, the appellant was required to satisfy the court afresh regarding his entitlement to bail. The learned trial court was, therefore, fully competent to examine the matter independently in light of the newly added serious offence.

11. A report dated 01.12.2025 has been received from the Court below. From perusal of the report it appears that on 03.04.2024, the trial of both the accused have been separated and separate case number i.e. S.T. No. 175 of 2024 and on 01.06.2024, process u/s 82 of Cr.P.C. has been issued against the accused and thereafter, on 17.07.2024, the appellant Vikram Manjhi was arrested. In the separated trial, the charge has also been framed on 30.07.2025.



12. The Apex Court has thus emphasized that in cases involving grave sexual offences, greater judicial caution is required, keeping in view the seriousness of the allegations, the vulnerability of the victim, and the larger societal interest. It has further observed that where the trial has commenced and material witnesses remain to be examined, interference with an order refusing bail should be exercised sparingly.

13. It is also well settled that conduct of the accused while on bail is a crucial consideration, and where such conduct indicates evasion of process or lack of respect for the court's authority, the same militates against grant of bail.

14. Further, it is well settled that supervening circumstances which have a direct bearing on the seriousness of the offence or the likelihood of the accused abusing liberty furnish valid grounds for refusal or withdrawal of bail. The Hon'ble Supreme Court has repeatedly held that while personal liberty is important, it cannot be placed above the interest of justice, particularly in heinous crimes affecting society at large.

15. In the present matter, the allegations include offences under Sections 307 and 376-D of IPC along with provisions of the SC/ST Act. The record further indicates that



after taking cognizance on 18.10.2023, the appellant did not appear before the trial court, resulting in issuance of bailable warrant and thereafter non-bailable warrants. Even if the appellant disputes service of summons, the fact remains that he remained absent until coercive steps were taken and as per the report submitted by the court below, the appellant was arrested on 17.07.2024. A person enlarged on bail is expected to remain vigilant and cooperate with the proceedings of the court. Grant of bail carries with it an obligation to appear before the court as and when required.

16. Considering the gravity of the allegations, subsequent addition of Section 376-D of IPC after grant of bail, the conduct of non-appearance leading to issuance of non-bailable warrants as well as issuance of process u/s 82 of Cr.P.C., charge being framed, the case is fixed for evidence and the ratio laid down by the Hon'ble Supreme Court in ***Pradeep Ram vs. State of Jharkhand & Anr.***, this Court is of the considered opinion that the learned trial court has not acted mechanically or arbitrarily in rejecting the prayer for bail. The impugned order reflects due consideration of the relevant facts and circumstances and does not suffer from perversity or illegality warranting interference by this Court in appellate



jurisdiction.

17. Accordingly, the prayer for grant of bail to the Appellant is, hereby, rejected and the present Appeal stands dismissed. The trial court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

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