

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20926 of 2024

Arising Out of PS. Case No.-10 Year-2023 Thana- BRAHMPUR District- Buxar

Umashankar Singh Son Of Subedar Singh @ Subadar Kuar R/O-Mahuar,
P.S.-Nainijor, Distt.-Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vishwas Mali Son Of Lalbabu Mali R/O-Chhathiya Pokhra, P.S.-Dumraon,
Distt.-Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Shankar Pathak, Advocate

For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

7 30-01-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The present application has been filed for
cancellation of bail granted to the opposite party no.2 by an
order dated 06.12.2023 passed by this Court in Cr. Misc.
No.77670 of 2023.

3. Notices had been issued to the opposite party no.2
in the year 2024 itself and despite the fact that said notice was
received by his brother as reported by the process server and a
jointness petition was also filed in this Court, the opposite party
no.2 has chosen not to appear in the proceedings although the
case has been taken up on number of dates even after issuance



of notice.

4. The present case is one under Section 394 of I.P.C. and the learned counsel for the petitioner has submitted that the opposite party no.2 had procured bail upon misrepresentation and fraud as he had suppressed the factum of recovery from his possession as the order granting bail would indicate that nothing incriminating had been recovered from his possession but as matter of fact, paragraph 51 of the case diary which had been called for by this Court for proper adjudication of this case, reveals that a total amount of Rs.95,500/- kept in a bag was recovered from the house of the opposite party no.2 upon raid being conducted in the presence of independent witnesses and a seizure list was also duly prepared. Learned counsel has also submitted that the bail application of other accused person, namely Bharat Kumar Yadav from whose house some recovery of Rs.49,500/- was made, was denied the privilege of bail by the same Bench of this Court by an order dated 02.08.2023 passed in Cr. Misc. No.15837 of 2023. This clearly demonstrates as to what had weighed with the Hon'ble Court while granting bail to the opposite party no.2 was primarily the fact that there was no recovery from his possession which facts stands negated by the materials collected during the course of investigation. Over and



above such ground of suppression, the learned counsel has also urged that after release, the opposite party no.2 has also been threatening the petitioner.

5. Taking into consideration the submissions of the learned counsel for the petitioner and after having gone through the entire records of this case including the case dairy, this Court is of the view that opposite party no.2 has procured bail from a Bench of this Court upon suppression of material facts and the law is very well established that fraud vitiates everything and so far as the cancellation of bail is concerned, any order procured upon misrepresentation or fraud which would include suppression of material fact, would come within the ambit of one of the grounds for seeking cancellation of bail as has been held by the Hon'ble Supreme Court in the case of **Himanshu Sharma vs. State of M.P.**, reported in **(2024) 4 SCC 222** as also in the case of **State of Karnataka vs. Sri Darshan**, reported in **2025 SCC Online SC 1923**. It is also a fact that the opposite party no.2 has not been appearing in the present proceedings also despite valid service of notice upon him.

6. In such view of the matter, bail granted to the opposite party no.2 is hereby cancelled. The O.P. No.2 (accused) shall surrender before the concerned Court within a period of



three weeks from today, failing which the concerned Court shall be at liberty to cancel his bail bonds and take all necessary steps to secure his custody. It is, however, clarified that in the event of any change in circumstances, liberty is granted to the O.P. No.2 to renew his prayer for bail before appropriate forum in accordance with law.

7. Accordingly, this application is allowed.

(Soni Shrivastava, J)

anand/-

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