

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57412 of 2021

Arising Out of PS. Case No.-338 Year-2020 Thana- PATNA CITY CHOWK District- Patna

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USHA DEVI DAUGHTER OF LATE BHAGWAT MALAKAR, WIFE OF
SRI SHANKAR BHAGAT RESIDENT OF MOHALLA- JANGALI
PRASAD LANE, NALA PAR, THANA- CHOWK, DISTRICT- PATNA

... .. Petitioner/s

Versus

1. The State of Bihar
2. SHASHI KUMAR@MITHU KUMAR SONS OF SUKHARI MALI AND
RITA DEVI RESIDENT OF MOHALLA- JANGALI PRASAD LANE,
NALA PAR, THANA- CHOWK, DISTRICT- PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Kaushal Kumar, Adv.
For the Opposite Party/s :	Mr. Anand Mohan Prasad Mehta, APP

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 02-02-2026 Heard learned counsel for the petitioner and learned
APP of the State.

2. The petitioner has filed the present application seeking cancellation of regular bail granted to opposite party no. 2 by the learned 1st Addl. District and Sessions Judge, Patna City vide order dated 12.07.2021 passed in B.P. No.659 of 2021.

3. The matter relates to kidnapping of the informant's son who is said to have left the house on 10.08.2020 and thereafter became traceless on account of the fact that accused persons including the opposite party no.2 are the *gotiya* of the petitioner (informant) who are having dispute with regard to property. There is a suspicion raised against the opposite party



no.2 of being involved in the said offence.

4. Upon perusal of the order granting bail to the opposite party no.2, it would appear that F.I.R has been lodged against opposite party no.2 and others upon suspicion and the order granting bail also indicates that there is no specific allegation against this O.P. No.2 of being involved in the said offence. After going through the case diary, learned Court concerned has reached a conclusion that the materials collected during investigation are also confined to suspicion existing against the opposite party no.2 and no other cogent material has been collected to show the complicity of the opposite party no.2 in the alleged offence. It has also been considered that the petitioner was in custody since 04.06.2021. It also appears that custodial interrogation of opposite party no.2 has already been done and in a case, which is based only on suspicion, on account of a property dispute between the agnates, no useful purpose would be served by canceling the bail, already granted to the opposite party no.2, unless some cogent and overwhelming circumstances exists with regard to misuse of bail etc.

5. Law is settled that for consideration of a case for cancellation of bail, parameters are totally on a different level than that of grant of bail requiring very cogent or overwhelming



circumstances for warranting interference, this Court finds no sufficient cause to interfere with the order granting bail to the opposite party no.2 after staying in custody. In such view of the matter, the application for cancellation of bail stands rejected.

6. However, considering the submissions of the learned counsel for the petitioner that the victim of this case has still not been traced, the Investigating Officer of this case is directed to take all necessary steps for recovering the victim and the matter shall be monitored by the Superintendent of Police, Patna City, East division and further, in case any co-operation is required from the opposite party no.2, she would make herself available and in case of any non-cooperation on her behalf, the petitioner shall be at liberty to file a further application for cancellation of bail.

(Soni Shrivastava, J)

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