

IN THE COURT OF S.D.J.M MANJHAUL
Khodawandpur P.S Case No. -229/2021
Order

10.11.2023

The petitioner filed a petition on dated 02/07/2022 for cancellation of bail bond of the accused namely Santosh Kumar, Manish Kumar Singh and Anita Devi in Khodawandpur P.S case No. 229/2021. He stated that at the time of hearing the bail application dated 18/12/2021 (for accused Anita Devi) and dated 20/12/2021 (for accused Santosh Kumar Singh and Manish Kumar Singh) Khodawandpur P.S Case No. 229/2021, it was concealed by the learned counsel of the accused applicants that there were other criminal antecedents of the accused persons whereas the fact is that there were several cases pending against them from before as such complaint case no. 1398C/2004 dated 30-08-2004 u/s-324/386/34 of IPC, Khodawandpur P.S case no. 54/2004 dated 22-07-2004 u/s 420/468/341/323/379/504/34 of IPC, Khodawandpur P.S case no. 28/2018 dated 20-02-2018 & charge sheeted u/s 341/323/307/504/34, of IPC, Khodawandpur P.S. case no. 227/2018 u/s 341/323/307/379/34 Khodawandpur P.S. case no. 227/2018 u/s 341/323/307/379/34 Khodawandpur P.S. case no., 241/2020 dated 22-11-2020 u/s 447/341/323/504/506/34 and other cases are also pending against the accused Santosh Kumar Singh, Anita Devi & Manish Kumar Singh.

He further submitted that in Case of Anil Baitha Vs State of Bihar held that if applicant concealed his criminal antecedent in seeking bail. Immediate step has been taken to file application seeking cancellation of the bail. That the Hon'ble Justice has further contended the concealment of criminal antecedent and thereby of tailing bail amount to interfering with the course of Justice and lowering down the faith of public in administration of justice which amount to serious offence and against all such persons for taking necessary legal step is going to be placed before the Hon'ble Chief Justice for listing before the appropriate bench. That the Hon'ble Justice also mentioned to orders to our Hon'ble apex court reported in (2004) 9 SCC page 670 and (1995) 1 SCC page 421, for taking against a person filing false affidavit, similarly before the this sessions judge in ABA no. 2829/2018, there are concealment of suppressing the criminal antecedent of the applicant against whom the legal action must be taken in the interest of justice.

He further submitted that if the needful action is not being taken against the accused person viz. Santosh Kumar Singh, Anita Devi

Manish Kumar Singh by canceling his bail bond and also direction for lodging FIR against them, in the light of the decision referred to above then there would be miscarriage of justice against the informant and the end of justice would suffer. That all the photo states of the decisions referred to the above along with the bail petition of the Khodawandpur P.S. case no. 229/2021 and its bail order, FIR copy etc. are enclosed herewith through the separate list of documents for your honors kind perusal and consideration.

Under the aforesaid facts your honor be pleased to invoke your honors power of canceling the bail bond of the accused applicant Santosh Kumar Singh, Anita Devi and Manish Kumar Singh in the bail order arising out of Khodawandpur P.S. case no. 229/2021.

On dated 06-09-2022 humble rejoinder petition filed on behalf of O.ps and stated that the applicant filed the Misc. petition dated 02-07-2022 is not maintainable either in the law or in the fact and misguided the ld. Court and not maintainable. That the applicant petition is unwarranted misconceived in the eye of the law. That the ld. Court granted the bail petition and it did not demand the criminal history of these O.ps petitioners.

That the ld. APO filed bail cancellation petition is bad in law for vexing O.ps for misusing the time of ld. Court. That the O.ps have not filed their bail application in Hon'ble High court Patna but the ld. Court SDJM Manjhaul Begusarai granted bail bond on sufficient sureties. That it is also important mention here that wife of O.ps Santosh Kumar Singh named Anita Devi has filed the case u/s 498A of the IPC in case no. 1410C/2004 which was pending in ld. SDJM Begusarai and Khodawandpur P.S. case no. 231/2021 is pending ld court SDJM Manjhaul. That is also important to mention that wife of Rishikesh Kumar Singh named Minakshi Kumari has filed the case u/s 498A of IPC in the court of CJM Muzaffarpur bearing complaint case no. 660C/20217 against Rishikesh Kumar and Usha Singh wife of late Rambilash Singh. That the petitioner and accused petitioner are family member and other case both party. That the petitioners case has no merit and no maintainable and it fit to be rejected the petition.

It is therefore prayed that your honour pleased to reject the petition of applicant dated 02-07-2022.

Heard both the parties and perused the entire case record it transpired that In view of the judgement of Anil Baitha Vs State of Bihar, (Criminal Misc No 34669 of 2021 of Hon'ble High court of

catna) it is held that It is the duty of the Investing officer of the case /Public Prosecutor /Assistant Prosecutor as the case may be,must provide the complete criminal antecedent to the learned court and the same be recorded specifically in the order either granting or refusal the bail.

Moreover,after perusal of the complete case record it is transpires that no any criminal antecedent or history mentioned against any accused persons in case diary . And also neither prosecution nor I.O filed any documents of criminal antecedent filed before court for granting or refusing bail.

Hon'ble Supreme Court held in catena of judgment that In the absence of prima facie strong evidence,a accused cannot be denied bail on the basis that he or she is already facing other similar criminal case and also propounded that if the material on record is not sufficient in view of the Court to establish reasonable prima facie case,Bail cannot be denied based on only criminal antecedents.

Moreover after perusal of FIR and cognizance it transpires that Sec 341,323,325,504 and 506 of the IPC involved. Out of these Sections all sections are bailable in simple in nature. It is established principal that in case of Bailable offence bail is a matter of right of the accused persons.

In case of Deepak Yadav Vs State of U.P (Criminal Appeal No 861 of 2022 of Hon,ble Supreme Court) held that for cancellation of bail Hon'ble Apex Court reiterated in several instances that bail once granted should not be cancelled in 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 trial. Having said that in case of cancellation Of bail,very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (Which was already granted) .Hon'ble Supreme Court in Dolat Ram & ors vs State of Haryana laid down the grounds of for cancellation of the bail which are :-

- (I) Interference or attempt to interfere with the due course of administration of justice.
- (II) Evasion or attempt to evade the due course of justice
- (III) Abuse of the concession granted to the accused in any manner
- (IV) Possibility of the accused absconding
- (V) Likelihood of /actually misuse of the bailable
- (VI) Likelihood of the accused tampering with the evidence or threatening witnesses.

Moreover, in this present case all accused persons never misused their benefit of bail and also never violated any above condition enumerated in case of Dolat Ram & ors vs State of Haryana .

After considering above this court finds for the interest of justice and the decision of case, an application filed by Petitioner (Informant/State) is here by rejected as not maintainable.

Dictated By

Md. Shahnawaz Alam
S.D.J.M, Manjhaul
10-11-23