

Pradeep Kumar Poddar, age 48 years, s/o Nand Lal Poddar..... Revisionist
Vs

1. The State of Bihar

2. Deoki Nandan Jhunjhunwala.....Opposite Parties

[Criminal Revision against order dated 15.02.2025 passed by the learned Court of Smt. Monika Verma, J.M. 1st Class, Bhagalpur in Complaint Case No. 2367/2022]

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18th day of July, 2026

PRESENT :- PRABHAT KRISHNA
IVth ADDL. SESSIONS JUDGE
BHAGALPUR.

ORDER

1. This Criminal Revision application has been preferred by the revisionist/accused against the order dated 15.02.2025 passed by the learned Court of Smt. Monika Verma, J.M. 1st Class, Bhagalpur in Complaint Case No. 2367/2022 whereby and whereunder the learned Judicial Magistrate has cancelled the bail bond of revisionist/accused Pradeep Kumar Poddar and ordered for issuance of NBW against him.

2. The brief facts, which may be adverted to for the disposal of this criminal revision, is that complainant/O.P. No. 2 Deoki Nandan Jhunjhunwala filed a complaint case against sole accused person namely Pradeep Kumar Poddar, who is revisionist herein, in respect of dishonour of cheques issued by accused/revisionist towards the debt in which the learned Court below was pleased to pass summoning order finding a prime facie case being made out u/Ss 420/406 of the I.P.C. as well as u/S 138 of the N.I. Act vide order dated 03.02.2023. Record reveals that the accused preferred anticipatory bail before the learned Court of Sessions vide A.B.P. No. 696/2003 in which the accused/revisionist undertook to pay balance amount Rs. 5,97,000/- in the bank account of complainant positively in installment within one year from 10.05.2023 and the learned Court of Additional Sessions Judge-XV, Bhagalpur was pleased to allow the same vide order dated 12.05.2023. Record reveals that the accused failed to keep his promise to pay the outstanding amount by 10.05.2024 whereafter on the prayer of the learned Counsel for the complainant, the learned Court cancelled his bail bond on 15.02.2025 and ordered for issuance of NBW against him.

3. Learned Counsel for the revisionist submitted that on 06.02.2025 the record was fixed for before charge evidence and accused had filed the representation petition. On that day learned Court below directed the accused to receive the copy of petition filed on behalf of the complainant but this was not communicated to the learned Counsel for the accused and on next fixed date i.e. 15.02.2025 though representation was filed on behalf of accused with mobile number of learned Advocate and the learned Counsel for the accused also made an effort to receive the copy of petition filed on behalf of the complainant but the bench clerk informed about non availability of record and fixed the date on 03.03.2025 on which date the learned Counsel for the accused did file representation petition but he was informed about non availability of record by the bench clerk again and next date was fixed as 11.04.2025 and thereafter learned Counsel for the accused came to know that bail bond was cancelled showing him as absent on 15.02.2025 and 03.03.2025 though representation was filed on these dates. He further submitted that the learned trial Court cancelled the bail bond of accused on 15.02.2025 without giving an opportunity of hearing on the ground that accused has not paid the balance amount, as per undertaking filed in anticipatory bail, within time. It is further submitted that the learned Counsel for the accused met with the then learned Presiding Officer and complained against the bench clerk for not attaching the representation petition on 15.02.2025 and 03.03.2025 on which direction was given and show cause was also asked from the bench clerk. It is next submitted that neither the complainant nor the learned Court below supplied the copy of petition dated 24.01.2025 to the learned Counsel for the accused. Raising legal point, he also submitted that the learned Court below has got no jurisdiction to cancel the anticipatory bail granted u/S 438 of Cr.P.C. by the learned Court of Additional Sessions Judge-XV, Bhagalpur because bail granted on condition by the learned Sessions Judge can be cancelled only by the Sessions Judge or by the Hon'ble High Court. He lastly submits that he has already paid Rs. 7,50,000/- to the complainant and will pay the rest amount in the learned Court below and prays to set aside the impugned order.

On the other hand, learned Counsel for the complainant as well as learned additional P.P. for the State submitted that the order passed by the learned

Court below is just and proper and it doesn't require any interference.

4. Heard Mr. Santosh Kumar Choudhary, learned counsel for the revisionist as well as Mr. Dinesh Prasad Suman, learned counsel for the complainant/O.P. No. 2 as well as Mr. P. P. Singh, learned Additional P.P. for the State and perused the record.

FINDINGS

5. The main grievance of the revisionist is that though he had filed representation petition on behalf of the accused on 15.02.2025 but the same was not attached with the record by the then Bench Clerk and the bail bond was cancelled showing the accused as absent. Further, the learned Court below has got no power to cancel the bail bond of accused who was granted anticipatory bail u/S 438 of Cr.P.C. by the learned Court of Additional Sessions Judge-XV, Bhagalpur on the ground that the bail granted u/S 438 of the Cr.P.C. can be cancelled only by the learned Sessions Judge or by the Hon'ble High Court for violating the conditions laid down therein. Learned Counsel has filed a copy of order dated 02.05.2014 passed by the Hon'ble High Court of Jharkhand in W.P. (Cr.) No. 337 of 2011 in which it has been held that the learned Judicial Magistrate has no jurisdiction to cancel the bail granted u/S 438 of the Cr.P.C. and Sec. 439(2) of the Cr.P.C. gives jurisdiction to the Sessions Court or the High Court to cancel the bail. So far as impugned order is concerned, it shows that no pairvi was attached with the record and learned Counsel for the accused also didn't turn up when called. However, the copy of representation petition filed on behalf of the accused shows that representation with mobile number of learned Advocate for the accused was filed on 15.02.2025. Again, though the complainant had filed a petition for cancellation of bail bond of accused on 24.01.2025 for not paying the rest amount within the time as mentioned in the order dated 12.05.2023 passed in A.B.P. No. 696 of 2023 but the copy of the same was never supplied to the learned Counsel for the accused. On perusal of the lower Court record, it transpires that when the learned Counsel for the accused complained to the then Presiding Officer against the then Bench Clerk for his negligency in not attaching the representation petition, a show

cause notice was given to the then Bench Clerk. All it goes to show that the then Bench Clerk was negligent in attaching the representation petition of accused on 15.02.2025. Also, it is the basic natural principle that party must be heard before passing any substantial order in the case. In this case, neither the copy of the petition dated 24.01.2025, filed on behalf of the complainant, was supplied to the learned Counsel for the accused nor he was heard on the point of cancellation of bail bond of accused for not complying the condition laid down in the order dated 12.05.2023 passed in A.B.P. No. 696 of 2023 and without giving an opportunity of hearing to the learned Counsel for the accused, his bail bond was ordered to be cancelled which is not just and proper. The order passed by the learned Court is incorrect and illegal.

6. Holding above view, this criminal revision is hereby ***allowed*** and the impugned order 15.02.2025 passed by the learned Court below in Complaint Case No. 2367/2022 is hereby set aside.

Dictated

Sd/-

(Prabhat Krishna)
IVth Addl. Sessions Judge
Bhagalpur
18.07.2026

Date of judgment/order	18-07-2026
Date of Reserving judgment/order	-
Uploading Date	03-08-2026
Uploaded by	Stenographer