

S.C. Spl No. 21/2018 (491/18)

21.11.2022

Today is fixed for further hearing of the petition for cancellation of bail of the accused persons as filed by the defacto complainant dated 04.05.22.

Out of 6 accused persons accused Haren Ch. Kumar is absent today by filing a petition praying for being represented by his ld. Lawyer. The other 5 accused persons are present.

Ld. Lawyer for the defacto complainant, ld. PP, ld. Lawyers for the accused persons are present.

Heard ld. Lawyers for the defacto complainant, for the accused persons and ld PP regarding the prayer of cancellation of bail.

Perused all the materials, documents etc. Considered.

It appears that the prayer of the defacto complainant to call for report from O/C Arsha PS as well as SP, Purulia regarding information of defacto complainant dated 26.04.22 (vide the petition dated 01.07.22) was already rejected vide order dated 30.07.22.

Today ld. Lawyers and ld. PP all have submitted further regarding the said prayer for cancellation of bail.

It appears from the record that after passing the order dated 30.07.22 the defacto complainant on 03.08.22 has filed xerox copy of a document dated 26.04.22 which was submitted by the defacto complainant to the Superintendent of Police, Purulia stating that all the 6 accused persons who are very much influential are threatening him to withdraw the case otherwise they would murder the defacto complainant.

It appears from this xerox copy that no such date has been mentioned in the said application as to on which date and time the said threatening was given. No reason is also stated as to how the accused persons are stated as influential persons.

It is submitted by ld. PP that the IO has not given any information for cancellation of bail in this case. It appears that the said application was given to SP, Purulia with a copy to OC, Arsha PS also. It is quite natural that after giving this information the IO was informed about the same but till date there is no prayer for cancellation of bail from the IO. No information could also be received regarding starting of any further criminal case on the basis of the said allegation.

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It appears from the record that bail was granted to the accused persons on 13.03.19 and thereafter on 25.03.19 and the alleged incident though it is not mentioned in the alleged application of SP, Purulia as per the petition dated 04.05.22 it happened on 14.04.22 and 20.04.22 i.e. after about 3 years and by this time the investigation has been completed and cognizance was taken by this court and no report is received from the IO that any such type of disturbance was created by the accused persons during investigation.

Ld lawyers for the accused persons submitted some decisions on the principle of cancellation of bail.

In the decision reported in **(1995) 1 SCC 349**, “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.”

In another decision reported in **(2020) 2 SCC 743**, “that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc.”

In another decision reported in **(2004) 13 SCC 617** “that in the absence of any supervening circumstances which might warrant recalling of the order which granted bail suo muto cancellation of bail on some misapprehension of factual position is not sustainable.”

It appears from the observation of the Hon’ble Apex Court that there must be cogent and over whelming circumstances present which may warrant be recalling of the order of granting bail. The order regarding cancellation of bail is a harsh order and it interfere with liberty of an individual and hence that is to be exercised very carefully.

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Considering the entire circumstances of this case it appears that there is no ground to allow the prayer of defacto complainant for cancellation of bail as per petition dated 04.05.22.

The IO is directed to produce the witnesses of this case at the time of trial with proper security so that the truth comes out before the court. As per the schedule which is to be fixed after framing of charge and copy of order would also be sent to the IO for compliance.

The petition dated 04.05.22 of the defacto complainant is rejected with the above observations.

Fix 20.01.23 for framing of charge.

Dictated & Corrected by me

Addl. Sessions Judge
1st Court, Purulia.

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1st Court, Purulia.