

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 474 of 2023

Mahima Mishra @ Mahima Prasad Mishra aged about
40 years son of Late Kritibas Mishra resident of village
Gopalpur (Kutting), P.O.- -Kutting, P.S. - Kamalpur,
Distt -East Singhbhum, Jharkhand. Petitioner

Versus

1. The State of Jharkhand
2. Smt. Shushmita Mishra aged about 35 years wife of
"Mahima Mishra, Daughter of Aditya Pati, resident of
village Banksai, P.O. Icha, P.S. Rajnagar Distt. -
Seraikella Opposite Parties

For the Petitioner	: Mr. Gautam Kumar, Adv. Mr. Rajesh Kr. Mishra, Adv.
For the State	: Mr. Shiv Shankar Kumar , Addl. PP
For the O.P.No. 2	: Mr. Vikash Kumar, Adv.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of CrPC with the prayer for quashing and setting aside the order dated 29.11.2022 passed by learned SDJM, Seraikella - Kharsawan in connection with Complaint Case no. 29 of 2017 whereby and where under, learned court below has cancelled the bail granted to the petitioner and directed for issuance of the non-bailable warrant of arrest.
3. The brief fact of the case is that complaint case no. 29 of 2017 of the court of learned SDJM, Seraikella was fixed to 23.07.2022 and on that day, the petitioner was absent. Learned Magistrate, directed the petitioner to remain physically present on next date. On the next date, on 27.09.2022, the petitioner was physically present before the court, but the complainant prayed for time to

produce evidence before charge. The case was next fixed to 29.11.2022. On 29.11.2022, though the petitioner was absent but his lawyer filed a petition for representation under Section 317 of CrPC. The complainant filed a petition for cancellation of the bail but learned SDJM, Seraikella erroneously under the impression that though on 23.07.2022, the petitioner was directed to remain physically present, as he did not come to court, hence cancelled the bail granted to the petitioner and issued non-bailable warrant of arrest.

4. It is submitted by learned counsel for the petitioner that the petitioner is a highly educated person having M.Tech degree and he is a law-abiding person. The opp. party no. 2 is the wife of the petitioner and the impugned order was passed under the mistaken premise because of the error apparent on the face of the record, that the petitioner did not appear in the court after 23.07.2022, though he was directed to remain physically present. It is lastly submitted that the prayer as made in this criminal miscellaneous petition be allowed.
5. Learned Addl. PP and learned counsel for the opp. party no. 2 on the other hand vehemently oppose the prayer of the petitioner but fairly submits that though vide order dated 23.07.2022, the petitioner was directed to remain physically present on next date i.e. on 27.09.2022 but on 27.09.2022 the petitioner was physically present in the court of learned SDJM, Seraikella. It is submitted that the petitioners ought not have remained absent on 29.11.2022, so no illegality has been committed by learned SDJM, in cancelling the bail granted to the petitioner. Hence, it is submitted that this Criminal Miscellaneous Petition being without any merit, be dismissed.
6. Having heard the submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that the undisputed fact remains that learned SDJM, Seraikella has committed an error apparent on the face of record by observing in the order dated 29.11.2022 that after the petitioner

was directed to remain physically present in the court vide order dated 23.07.2022, he did not appear in the court. Which is an apparent error without because the order dated 27.09.2022 goes to show that the petitioner was present in the court of the learned SDJM, Seraikella.

7. In view of this apparent error on the record committed by the learned SDJM, this Court has no hesitation in holding that learned SDJM, has committed illegality vide order dated 29.11.2022, by not disposing of the petition filed by the petitioner under Section 317 of CrPC and straightway, cancelling the bail of the petitioner without any rhyme or reason.
8. Accordingly, the order 29.11.2022 passed by learned SDJM, Seraikella-Kharsawan in connection with Complaint Case no. 29 of 2017 is quashed and set aside. The bail bond of the petitioner filed earlier in the Complaint Case no. 29 of 2017 is restored.
9. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 26th November, 2025
Smita / AFR

Uploaded on 11/12/ 2025