

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 1225 of 2023

Subodh Kumar @ Subhodh Kumar, aged about 39 years,  
Son of Late Rameshwar Prasad, resident of H.No. 17A,  
Shivpuri Colony, Chutia, Near Hatiya Talab, Lower  
Chutia, P.O. & P.S. Chutia, District Ranchi, State-  
Jharkhand. .... Petitioner

Versus

1. The State of Jharkhand
2. Soni Kumari Supriya, wife of Subodh Kumar daughter  
of Gopalji Prasad, resident of H.No.26, Block No. 678,  
near Hume Pipe, Nirmal Nagar, P.O. & P.S.  
Sitaramdera, Town- Jamshedpur, District- East  
Singhbhum. .... Opposite Parties

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|--------------------|------------------------------------|
| For the Petitioner | : Mr. Vikash Kumar , Adv.          |
| For the State      | : Mr. Shiv Shankar Kumar, Addl. PP |
| For the O.P. No. 2 | : Mr. Samir Kr. Lall , 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 CrPC with the prayer for quashing and setting aside the order dated 09.05.2022 passed by learned CJM, Jamshedpur whereby and whereunder, the bail of the petitioner was cancelled consequent upon his not appearing before the trial court on four consecutive dates nor his lawyer taking any step on his behalf and issued the non-bailable warrant against him in connection with Mahila P.S. case no. 06 of 2017 corresponding to G.R. case no. 581 of 2017 and also to quash the order dated 25.01.2023 passed by learned Sessions Judge, East Singhbhum at Jamshedpur in Cr. Rev. 288 of 2022 which was dismissed by learned Sessions Judge, Jamshedpur.

3. The brief fact of the case is that the petitioner was admitted to bail by learned Judicial Magistrate in terms of the order dated 18.12.2018 passed by the co-ordinate Bench of this Court in ABA No. 957 of 2018. After being granted bail, the petitioner submitted bail bond in the court of learned JMFC with sureties and in the bail bond, he undertook to appear before the trial court on each and every date to which, the case will be next fixed. On 09.05.2022, the witness of the prosecution was present but to frustrate the same, the petitioner neither appeared himself nor his lawyer took any step for his exemption from his personal appearance and keeping in view the conduct of the petitioner in not co-operating in hearing of the case by which the witness was returned unexamined, his bail was cancelled and non-bailable warrant of arrest was issued.
4. It is submitted by learned counsel for the petitioner relying upon the order of the Hon'ble Supreme Court of India in the case of **Dolat Ram and Ors. Vs. State of Haryana** reported in (1994) 0 **Supreme (SC) 1178**, that therein the Hon'ble Supreme Court of India has mentioned that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted but that was not a case, where the petitioner did not appear before the trial court after being granted bail on the date fixed nor any step was filed on behalf of the accused person of that case by his lawyer.
5. Learned counsel for the petitioner next relying upon the order of the Hon'ble Supreme Court of India in the case of **Krishna Sharma @ Krishna Kumar Sharma vs. State of West Bengal and Anr.** reported in **2024 Supreme (SC) 881**, submits that therein the Hon'ble Supreme Court of India has opined that the bail already granted may be cancelled, if it is found that person who has been granted the benefit of bail, has violated any of the conditions or misused the liberty by influencing the witnesses or tampering with the evidence.

6. Learned counsel for the petitioner next relying upon the order of the Hon'ble Supreme Court of India in the case of **Bhuri Bai vs. The State of Madhya Pradesh** reported in **2022 0 Supreme (SC) 1161**, submits that therein it was observed by the Hon'ble Supreme Court of India that normally, very cogent and overwhelming circumstances or grounds are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervening event is made out, an order granting bail is not to be lightly interfered with under Section 439 (2) CrPC.
7. Learned counsel for the petitioner next relying upon the order of this Court in the case of **Anil Kumar Agarwal Vs. The State of Jharkhand and Another** dated **01.03.2024** passed in **Cr. M.P. 3217 of 2022** and submits that therein, this Court has mentioned the ground illustratively though not exhaustively, where the bail granted to the accused can be cancelled.
8. It is next submitted by learned counsel for the petitioner that the petitioner has not committed any acts or omission for which, bail once granted, can be cancelled and hence, it is submitted that learned Magistrate has committed grave illegality by cancelling the bail granted to the petitioner. It is further submitted that since the very genesis of the present case so far as it relates to the petitioner is bad in law, therefore the order dated 25.01.2023 passed by learned Sessions Judge, East Singhbhum, at Jamshedpur be also quashed and set aside and the prayer as made in this criminal miscellaneous petition be allowed.
9. Learned Addl. PP and learned counsel for the Opp. Party no. 2, on the other hand, vehemently oppose the prayer of the petitioner and submit that there is absolutely no illegality in the order passed by learned JMFC. It is next submitted that it is a settled principle of law that the bail granted to the accused do not confer unfettered right to the accused to not to appear before the court any further rather in the bail bond itself the petitioner and the sureties have undertaken that the petitioner shall remain present in court on each date to which the case would be fixed by the

court. It is then submitted that when the court directs an accused to remain physically present in the court on a specific day; the accused of the case do not have any choice of not to appear before learned trial court. It is further submitted that during a criminal trial involving non-bailable offences, the accused of the case is kept in judicial custody and only when the accused person prays and satisfy the court that he will remain present in the court in future dates to which the case would be fixed and co-operate with the trial; the court allows the accused to remain on bail. It is next submitted that therefore, the bail entails with it the liability of the accused to remain present in court on each of the dates, to which the case is fixed. Hence, an accused in bail cannot take the liberty not to remain present in on the date fixed, without the permission of the court and if the accused is unable to remain present in the court on the date fixed by his own arrangement, he has the choice of remaining in jail in judicial custody. Then it will be upon the court to ensure his presence before it as and when desired by the court. It is also submitted that here, in this case, the petitioner wants to have cake and eat it too. He wants to remain on bail but wants the liberty of not to appear before the court as per his sweet will on the date fixed by the court, ignoring the direction of the court to remain physically present in court; when the witnesses appear, so that the witnesses cannot be examined and the trial will go on endlessly, which is not permissible in law. It is then submitted that as though the witnesses were present in the court, they had to be returned because of the misconduct of the petitioner in not himself remaining present nor his Advocate took any step to represent him by exempting his personal appearance and hence, the trial could not proceed with the trial of the case and the witnesses were unnecessarily been harassed by the petitioner, deliberately and intentionally, so that they can be influenced upon and the evidence can be tampered with, even though the petitioner undertook to remain present in the court on each date in the bail bond submitted by him and with this

misconduct of the petitioner, the petitioner has violated the terms and conditions of the bail bond furnished by him without any plausible reason, which is unpardonable. Hence, it is submitted that no illegality has been committed by learned Judicial Magistrate in cancelling the bail when the petitioner was admittedly not appearing before the trial court for last many days nor his lawyer was taking any step. Hence, it is submitted that this Criminal Miscellaneous Petition being without any merit, be dismissed.

10. Having heard the submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that an accused of a criminal case, who is released on bail, has no choice for not appearing before the court, which grants him bail as per his sweet will, without the permission of the court and when the trial is going on and more so, when the witnesses are present in the trial court. When an accused is produced before the court in a criminal case involving non-bailable offences, the accused is first remanded to judicial custody by the court. After such remand to judicial custody, the accused may pray for being released on bail and if the court which is remands the accused to judicial custody; or any other court empowered under Section 437 or 439 of the Code of Criminal Procedure is satisfied that the accused will remain present in the court, in which the case is pending and other attending circumstances; on the prayer of the accused, releases the accused on bail. After an accused is granted bail as such; by the order of the court, the accused furnishes a bail bond and in the bail bond, the accused undertakes that he will appear before the court on each of the dates to which the case would be fixed in future. So, ordinarily the accused is expected to remain present in court on each of the dates to which the case is fixed. Of course, there is provision *inter alia* in Section 317 of the Cr.P.C. where the court can dispense with the personal attendance of the accused and proceed with such enquiry or trial in absence of the accused, if he

- is represented by his pleader. If the accused is unable to present himself before the court by his own personal arrangement; when the date of the case is fixed; he has the choice to remain in judicial custody and to face the trial while being in judicial custody and when the accused is in judicial custody; then to ensure his production before the trial court, will be the responsibility of the court concerned by passing appropriate orders and giving necessary direction to the agencies concerned.
11. Under such circumstances, the misconduct of the petitioner in remaining absent from the court, when the witnesses of the prosecution were present in the court and not even instructing his advocate to represent him, resulted in the witnesses being returned, so unnecessarily the witnesses have been harassed. It is not difficult to fathom that such tactics is adopted to dissuade the witnesses from deposing against the accused persons, which is a means of tampering with the evidence.
  12. So far as the orders of the Hon'ble Supreme Court of India in the cases of **Dolat Ram and Ors. Vs. State of Haryana (supra)** and **Bhuri Bai vs. The State of Madhya Pradesh (supra)** are concerned, they are not the cases where the bail of the accused persons of those cases were cancelled because of the accused persons not appearing before the court when the witnesses were present, thereby frustrating the trial by returning the witnesses unexamined and thus lingering the trial.
  13. So far as the order of the Hon'ble Supreme Court of India in the case of **Krishna Sharma @ Krishna Kumar Sharma vs. State of West Bengal and Anr. (supra)** is concerned, therein, it has categorically been held by the Hon'ble Supreme Court of India that if it is found that the accused person, who has been granted the benefit of bail, has violated any of the conditions, then the bail can be cancelled.
  14. Now coming to the facts of the case, the condition of the bail was that the petitioner must remain present on each and every date to which the case would be fixed by the trial court and to that effect,

the petitioner has submitted a bail bond also but even then he has violated the condition of remaining present in the court and is not even taking the pain to ensure that even his advocate at least represents him and prays for dispensing with his personal appearance so that the witnesses could be examined by the trial court.

15. A criminal trial cannot take place in the absence of an accused person and it is common knowledge that an accused person of the case, if he knows that his conviction is imminent because of the anticipation that the witness will support the case of the prosecution, then the accused person resorts to all kind of tactics to delay the trial and to harass the witnesses by making them to come to the court again and again for recording of their evidence. The Legislature in its wisdom has not put any embargo on the court to issue the non bailable warrant on the same day of cancelling bail consequent upon the violation of the condition of the bail by the accused person. Certainly, by way of legal fiction, such an embargo cannot be put upon the court, not to cancel the bail immediately, if the accused do not come up before it, even if the witnesses of the prosecution are present. If such an embargo is presumed to be there, then the same will lead to disastrous consequences; because in order to frustrate the prosecution, the accused person will deliberately avoid appearing in the court as and when the prosecution witnesses turn up, in order to harass them by coming to court again and again and in absence of the accused or his pleader in the case of the personal appearance of the accused is dispensed with, as the examination of the witnesses cannot take place and the trial of the case will be a never ending one and will result in paralyzing the criminal justice system.
16. Accordingly, there being no justifiable reason to accede to the prayer made in this Criminal Miscellaneous Petition for exercise of its power under section 482 of CrPC, this court is of the considered view that this is not fit case where the prayer as made

in this Criminal Miscellaneous Petition by the petitioner to be acceded in exercise of its power under Section 482 of CrPC.

17. Accordingly, this Criminal Miscellaneous Petition being without any merit is dismissed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated, the 22<sup>nd</sup> January, 2026  
Smita / AFR

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