

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1714 of 2023

Prosenjeet Ghosh aged about 41 years son of Arun Ghosh resident of
H No. 89, Mandir Path Bhatia Basti, P.O. + P.S.- Kadma, District-
East Singhbhum (Jamshedpur) ... Petitioner

Versus

1. The State of Jharkhand
2. Monica Ghosh wife of Prosenjeet Ghosh resident of Ashok path,
Bhatia Basti, Kadma, P.O. + P.S.- Kadma, District- East Singhbhum
(Jamshedpur) ... Opposite Parties

For the Petitioner : Mr. Arvind Kr. Choudhary, Advocate
Mr. Shambhu Nath Tiwari, Advocate
For the State : Ms. Priya Shrestha, Spl. P.P. (Through V.C.)
For the O.P. No.2 : Mr. Arun Kr. Pandey, Advocate

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 the Code of Criminal Procedure, 1973 with the prayer to quash the order dated 19.01.2023 passed by the learned Additional Sessions Judge-IV-cum-Special Judge (FTC) (CAW), Jamshedpur in Criminal Misc. Case No.31 of 2022 arising out of Kadma P.S. Case No.187 of 2020 corresponding to G.R. Case No.898 of 2021 whereby and where under the learned Additional Sessions Judge-VII cum-Special Judge (FTC) (CAW), Jamshedpur has cancelled the anticipatory bail granted to the petitioner vide order dated 02.03.2021 passed in A.B.P. No.225 of 2021.

3. The brief facts of the case is that the petitioner was granted the privileges of anticipatory bail by the learned Additional Sessions Judge-VII, Jamshedpur vide order dated 02.03.2021 in A.B.P. No.225 of 2021 subject to the condition that the petitioner will not violate the terms and conditions agreed upon in the mediation settlement agreement, failing which the informant shall have the liberty to move the competent authority for cancellation of the bail. One of the conditions imposed was that the petitioner has to pay Rs.30,000/- per month towards the maintenance of the second party as well as the maintenance of both of their son and daughter. Alleging that the petitioner has violated the said condition of payment of Rs.30,000/- per month on or before the 15th day of every English Calendar month and as the petitioner did not pay the said amount after June, 2021, thus, the informant filed a petition with the prayer for cancellation of the anticipatory bail of the petitioner and the same has been cancelled by the impugned order.

4. Learned counsel for the petitioner relies upon the judgment of this Court in the case of **Diksha Kumari @ Disksha Kumari vs. The State of Jharkhand & Another** reported in **2024:JHHC:16516** and submits that therein this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Pritpal Singh Vs. State of Bihar** reported in **2001 SCC OnLine SC 123** paragraphs-4 & 5 of which read as under:-

"4. The dispute raised in the case relates to eviction of the appellant who is the tenant from the premises of which the respondent is the owner. Previously, there was a compromise between the parties in which it was agreed inter alia that the appellant will pay certain

amount to the respondent and vacate the premises by the time stipulated. On the allegation that the appellant has failed to comply with the terms of the compromise by not vacating the premises in question within the time stipulated, the petition for cancellation of bail was filed. It is stated by learned counsel for the appellant that neither was any averment made in the petition about misuse of liberty granted to the appellant nor was any difficulty alleged to have been faced by the prosecution in the case on the ground of the appellant being at large.

5. The Magistrate cancelled the bail granted to the appellant solely on the ground that the terms of the compromise had not been complied with. To say the least, the ground on which the petition for cancellation of bail was made and was granted is wholly untenable. It is our view that the order if allowed to stand will result in abuse of the process of court. The High Court clearly erred in maintaining the order. Therefore, the order passed by the Magistrate cancelling the bail and the order of the High Court confirming the said order are set aside. The bail order is restored. The appeal is allowed.” (Emphasis supplied)

and submits that therein the Hon’ble Supreme Court of India has held that the sole ground for cancellation of the bail that terms of the compromise has not been complied with, was untenable.

5. Learned counsel for the petitioner further submits that in that case this Court relied upon the judgment of this Court in the case of **Jyotshna Sharma @ Jyotsana Anand vs. The State of Jharkhand & Others** passed in Cr.M.P. No.2499 of 2021 dated 01.04.2022 wherein this Court enumerated the following grounds illustratively though not exhaustively; where bail granted to an accused can be cancelled:-

- (i) *by indulging in similar criminal activity,*
- (ii) *interfering with the course of investigation,*
- (iii) *attempted to tamper with evidence or witnesses,*
- (iv) *threaten witnesses or indulges in similar activities which would hamper smooth investigation,*
- (v) *there is likelihood of their fleeing to another country,*
- (vi) *attempted to make themselves scarce by going underground or becoming unavailable to the investigating agency,*
- (vii) *attempted to place themselves beyond the reach of his surety,*
- etc.*

and submits that it is a settled principle of law that solely the non-compliance of the terms and conditions of compromise, cannot be a ground for cancellation of bail.

6. Learned counsel for the petitioner next submits that in that case this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Biman Chatterjee vs. Sanchita Chatterjee & Another** reported in (2004) 3 SCC 388 paragraphs-6 and 7 of which read as under:-

"6. The learned counsel appearing for the respondent, however, contended that the very basis of the grant of bail originally was on an assurance given by the appellant that he would compromise and would keep his wife with him and he having failed to fulfil the said promise made to the court, the High Court was justified in cancelling the bail because the foundation for the grant of bail was the promise made by the appellant.

7. Having heard the learned counsel for the parties, we are of the opinion that the High Court was not justified in cancelling the bail on the ground that the appellant had violated the terms of the compromise. Though in the original order granting bail there is a reference to an agreement of the parties to have a talk of compromise through the media of well-wishers, there is no submission made to the court that there will be a compromise or that the appellant would take back his wife. Be that as it may, in our opinion, the courts below could not have cancelled the bail solely on the ground that the appellant had failed to keep up his promise made to the court. Here we hasten to observe, first of all from the material on record, we do not find that there was any compromise arrived at between the parties at all, hence, question of fulfilling the terms of such compromise does not arise. That apart, non-fulfilment of the terms of the compromise cannot be the basis of granting or cancelling a bail. The grant of bail under the Criminal Procedure Code is governed by the provision of Chapter XXXIII of the Code and the provision therein does not contemplate either granting of a bail on the basis of an assurance of a compromise or cancellation of a bail for violation of the terms of such compromise. What the court has to bear in mind while granting bail is what is provided for in Section 437 of the said Code. In our opinion, having granted the bail under the said provision of law, it is not open to the trial court or the High Court to cancel the same on a ground alien to the grounds mentioned for cancellation of bail in the said provision of law." (Emphasis supplied)

wherein the Hon'ble Supreme Court of India has observed that the High Court was not justified in cancelling the bail on the ground that the accused person had violated the terms of the compromise and that bail cannot be granted on the basis of an assurance of a compromise.

7. Learned counsel for the petitioner next submits that in that case this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Dolat Ram & Others vs. State of Haryana** reported in (1995) 1 SCC 349 paragraph-4 of which reads as under:-

"4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. 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. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted." (Emphasis supplied)

8. It is lastly submitted that since the learned court has cancelled the bail granted to the petitioner, on a ground alien to the settled principle of law hence the prayer, as prayed for in the instant Cr.M.P., be allowed.

9. Learned Spl. P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand submit that since it was a

condition in the anticipatory bail granted to the petitioner that the petitioner has to comply with the terms and conditions of the mediation settlement and the petitioner having violated the same, no illegality has been committed by the learned court below in cancelling the anticipatory bail granted to the petitioner. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

10. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that the Hon'ble Supreme Court of India in the case of **Pritpal Singh Vs. State of Bihar (supra)** has held that the bail granted to the accused person cannot be cancelled solely on the ground that the terms and conditions of the compromise has not been complied with. As already indicated above, there is no allegation against the petitioner of having committed any act or omission which could be a ground for cancellation of the bail as enumerated by this Court in the case of **Jyotshna Sharma @ Jyotsana Anand vs. The State of Jharkhand & Others (supra)**.

11. Section 22 (3) of the Mediation Act, 2023 which read as under:-

"No party to the mediation shall in any proceeding before a court or tribunal including arbitral tribunal, rely on or introduce as evidence any information or communication set both in clauses (i) to (iv) of sub-section (1), including any information in electronic form, or verbal communication and the court or tribunal including arbitral tribunals shall not take cognizance of such information or evidence."
(Emphasis supplied)

mandates that no court or tribunal shall take cognizance of any information or evidence which was agreed to between the parties in

any mediation proceeding to maintain the sanctity of the confidentiality of the mediation proceeding.

12. Under such circumstances, this Court is of the considered view that the learned Additional Sessions Judge-IV-cum-Special Judge (FTC) (CAW), Jamshedpur, in view of the principle of law settled in the case of **Biman Chatterjee vs. Sanchita Chatterjee & Another (supra)**, ought not have imposed the condition of complying the terms of the agreement arrived at in a mediation proceeding while granting the anticipatory bail, as from the plain reading of Section 22 (3) of the Mediation Act, 2023, it is crystal clear that because of the prohibition the settlements in the mediations have been excluded to be considered, *inter alia* by any Court; obviously, in order to facilitate an unhindered, free and fair exchange of thoughts and conditions during the mediation, to facilitate an effective mediation.

13. The only allegation against the petitioner is that he has violated the terms and conditions of the agreement arrived at in a mediation. Under such circumstances, this Court is of the considered view that the learned Additional Sessions Judge-IV-cum-Special Judge (FTC) (CAW), Jamshedpur has committed a grave illegality by cancelling the bail granted to the petitioner solely on the ground that he did not comply with one of the conditions of the settlement agreement arrived at in a mediation.

14. Under such circumstances, this Court has no hesitation in holding that this is a fit case where the learned Additional Sessions

Judge-IV-cum-Special Judge (FTC) (CAW), Jamshedpur vide order dated 19.01.2023 in Criminal Misc. Case No.31 of 2022 arising out of Kadma P.S. Case No.187 of 2020 corresponding to G.R. Case No.898 of 2021 has committed a grave illegality by cancelling the privileges of anticipatory bail granted to the petitioner vide order dated 02.03.2021 passed in A.B.P. No.225 of 2021 by the learned Additional Sessions Judge-VII, Jamshedpur.

15. Accordingly, the impugned order dated 19.01.2023 passed by the learned Additional Sessions Judge-IV-cum-Special Judge (FTC) (CAW), Jamshedpur in Criminal Misc. Case No.31 of 2022 arising out of Kadma P.S. Case No.187 of 2020 corresponding to G.R. Case No.898 of 2021, being not sustainable in law, is quashed and set aside and the anticipatory bail granted to the petitioner by the learned Additional Sessions Judge-VII, Jamshedpur vide order dated 02.03.2021 passed in A.B.P. No.225 of 2021 in connection with Kadma P.S. Case No.187 of 2020, is restored and the petitioner is directed to continue with the said bail and participate in the trial of the case.

16. Accordingly, this Criminal Miscellaneous Petition is allowed to the aforesaid extent.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 27th of January, 2026
AFR/ Animesh
Uploaded on- 29/01/2026