

## Sohan Chaurasia Vs State of Jharkhand

**Court:** Jharkhand High Court

**Date of Decision:** July 20, 2004

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 439

**Citation:** (2005) CriLJ 443

**Hon'ble Judges:** R.K. Merathia, J

**Bench:** Single Bench

**Advocate:** Anil Kumar Jha, for the Appellant; Assistant Public Prosecutor, for the Respondent

### Judgement

@JUDGMENTTAG-ORDER

R.K. Merathia, J.

Heard. On 28-4-2004 bail was granted to the petitioner on the basis of following submissions of learned counsel for the petitioner :-

that petitioner is in jail since 14-11-2003, but he has not been put on T.I. Parade as yet, only on the basis of the confessional statement of co-

accused his complicity has come in this case; petitioner has got no criminal antecedent.

2. While hearing B.A. No. 816 of 2004 filed by co-accused Awadesh Kumar Singh it transpired that the materials collected during investigation

were not placed before the Court. Thus notices were issued to the petitioner as to why his bail granted on 28-4-2004 be not cancelled.

3. On 28-6-2004 learned counsel for the petitioner submitted that for filing effective show cause it is necessary to know the grounds on which the

show cause has to be filed. Accordingly, it was ordered on 28-6-2004 that petitioner may file show cause as to why his bail should not be

cancelled as it appears that materials collected against him were not placed before this Court fully, specially paragraphs 402, 114 and 144 of the

case diary. Then a show cause has been filed on 9-7-2004, pursuant to the order dated 28-6-2004. On the next date fixed i.e. 12-7-2004 learned

counsel for the petitioner and learned counsel for the State were heard on the aforesaid show cause.

4. Learned counsel for the petitioner submitted that bail was granted to the petitioner after considering the entire matter fully and, therefore, there is

no justification for cancellation of bail. He further submitted that the confessions of co-accused has got no evidentiary value. He further submitted

that it was the duty of the learned Government counsel to place the materials in the case diary fully.

5. Learned State counsel submitted that it is not clear from the case diary that petitioner entered the house at the time of dacoity. Therefore, he

submits that when bail was granted on 28-4-2004 the submission about T.I. parade is irrelevant for the petitioner. He further submitted that it is

true that on the basis of confessional statement of co-accused, petitioner's complicity has come in the case diary but for the purpose of bail the

materials collected during investigation in the case diary has to be looked into. The confessional statement of the co-accused will not be treated as

evidence if the same is not corroborated in the trial. Learned State counsel pointed out with reference to the aforesaid paragraphs that Ramesh

Prasad Das, driver of the informant informed the petitioner about a month back that the informant (his employer) was going to take out Rs. 15 lacs

from Bank for purchase of land. The said driver also informed the petitioner that the informant has got sufficient cash and jewellery in his home.

Then petitioner contacted the criminals and participated fully in the planning and ultimately dacoity was committed. Learned State counsel

submitted that the aforesaid statement is corroborated by other co-accused in the case diary. He lastly submitted that due to oversight the said

materials were not placed before this Court when bail was granted to the petitioner.

6. After hearing the parties I am satisfied that aforesaid materials collected during the investigation were not placed before this Court when bail was

granted to the petitioner, otherwise I would not have granted bail, in my opinion petitioner does not deserve bail.

7. I do not want to comment on the assistance provided to the Court by the State counsel. However, if it appears to the Court that bail was

granted due to improper assistance by the counsel for the parties, there should not be any difficulty in cancelling the same. After all mistakes can

always be corrected.

8. The accused cannot claim as a matter of right that he should be allowed to remain on bail granted in such situation.

It is well settled that an order resulting from suppression of material facts and on a false statement is a nullity in law. There is no need of any

judicial precedent in support of the aforesaid proposition. This circumstance in my view, would alone be sufficient to cancel the bail granted to the

two respondents.

9. In the facts and circumstances of the case, in my opinion, it is a fit case in which petitioner's bail should be cancelled. However, this order will

not prejudice the parties in the trial.

10. The bail granted to the petitioner on 28-4-2004 is hereby cancelled. Learned Court below will take step for arrest of the petitioner and report

this Court immediately. Let a copy of this order be sent to the learned Court below without any delay.

11. Later -- After the order was pronounced Mr. Anil Kumar Jha, learned counsel for the petitioner states that petitioner will surrender before the

Court below within two weeks from today. If the petitioner does not surrender before the Court below within two weeks, learned Court below

will take step for his arrest and report this Court immediately.

Let a copy of this order be sent to the learned Court below.