

**SUPREME COURT OF INDIA****Bench: Justices Vikram Nath and Sanjay Kumar****Date of Decision: 6th March 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. \_\_\_\_\_ of 2024

(@Special Leave Petition (Crl.) No. 10499 OF 2023)

**STATE OF JHARKHAND ...APPELLANT****VERSUS****SANDEEP KUMAR ...RESPONDENT****Legislation:**

Sections 419, 466, 221, 205, 109, 120-B/34 IPC (Indian Penal Code)

Sections 65 and 68 of the Copyright Act, 1957

Section 438 (2) of the Cr. P.C. (Code of Criminal Procedure)

**Subject:** The appeal concerns the pre-arrest bail granted to the respondent, a police officer, by the High Court of Jharkhand, in a case involving allegations of wrongful arrest and manipulation of an FIR.**Headnotes:****Criminal Law – Grant of Anticipatory Bail – Police Officer Misconduct –Bail Overturned – High Court's decision granting pre-arrest bail to respondent, a**

police officer accused of manipulating investigation and wrongful arrest in Dhanwar PS Case No. 296 of 2021, set aside – Serious allegations against the police officer necessitated careful consideration [Paras 1-2, 9-11]

Role and Conduct of Police in Investigations – emphasized the heightened responsibility of police officers in maintaining the integrity of investigations. The Court underscored the serious implications of a police officer, particularly an Investigating Officer, abusing their authority to manipulate investigations. [Para 6, 8, 10]

Criteria for Granting Bail – outlined – The Court reiterated the considerations for granting bail, including the nature and seriousness of the offence, evidence character, peculiar circumstances of the accused, and potential risk of the accused tampering with evidence or witnesses. It was held that these considerations also apply to anticipatory bail, with additional emphasis on public interest and state security in cases involving police officers. [Para 7]

Judicial Discretion in Bail Matters – stressed – The Court noted that the exercise of judicial discretion in bail matters must be judicious and supported by cogent reasons, especially in cases involving law enforcement officers where public interest and the integrity of the criminal justice system are at stake. [Para 5, 9]

Decision – Revocation of Anticipatory Bail – The Supreme Court set aside the High Court's order granting anticipatory bail to the accused police officer, observing that the High Court failed to consider the serious allegations and the potential impact on public trust in law enforcement.

Referred Cases:

- Ram Govind Upadhyay vs. Sudarshan Singh and others (2002) 3 SCC 598
- State vs. Captain Jagjit Singh AIR 1962 SC 253
- Gurcharan Singh vs. State (Delhi Administration) (1978) 1 SCC 118
- State of Gujarat vs. Salimbhai Abdulgaffar Shaikh (2003) 8 SCC 50

## **J U D G M E N T**

### **SANJAY KUMAR, J**

1. Leave granted.
2. By order dated 06.07.2022 passed in ABA No. 3483 of 2022, the High Court of Jharkhand at Ranchi granted pre-arrest bail to the respondent herein in

relation to Dhanwar PS Case No. 296 of 2021, registered for offences under Sections 419, 466, 221, 205, 109 and 120-B/ 34 IPC. Aggrieved thereby, the State of Jharkhand filed the present appeal.

**3.** The respondent was the Officer-in-Charge of Dhanwar Police Station at the relevant time and was the Investigating Officer in Dhanwar PS Case No. 276 of 2021 registered against one Ranjeet Kumar Saw, son of Lakhan Saw, under Sections 420, 475, 201, 109 and 34 IPC along with Sections 65 and 68 of the Copyright Act, 1957. The said case was registered upon the complaint made by one Sanjay Kumar Sharma on behalf of United Spirits Limited. The allegation against the respondent herein, which led to the registration of the present case against him, was that he had made interpolations in the FIR in Dhanwar PS Case No. 276 of 2021, whereby he changed the name of the father of Ranjeet Kumar Saw, the accused therein, from Lakhan Saw to Balgovind Saw and, thereupon, arrested Ranjeet Kumar Saw, son of Balgovind Saw, so as to shield Ranjeet Kumar Saw, son of Lakhan Saw.

**4.** In the first instance, the anticipatory bail petition filed by the respondent was rejected by the learned Additional Sessions Judge-V, Giridih, *vide* order dated 05.04.2022. The learned Judge noted therein that the CCTV footage of Dhanwar Police Station revealed that Ranjeet Kumar Saw, son of Lakhan Saw, entered the police station and had several meetings with the respondent and it was only at about 10 pm, that Ranjeet Kumar Saw, son of Balgovind Saw, entered the police station and was placed in custody at about 11.22 pm. Further, the learned Judge noted that the interpolations in the FIR were clearly visible to the naked eye and that there were sufficient materials indicating the involvement of the respondent in the alleged offence. Holding so, he dismissed the bail petition.

**5.** Thereupon, the respondent approached the High Court by way of ABA No. 3483 of 2022 praying for anticipatory bail. Perusal of the impugned order dated 06.07.2022 passed therein reflects that the High Court recorded no reasons whatsoever for granting him such relief. The operative portion of the order reads as under: -

‘Considering the submissions of the learned counsels and the facts as discussed above, the anticipatory bail application is allowed. Hence, in the event of his arrest or surrender within a period of four weeks from the date of this order, the petitioner named above shall be

released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Court below, subject to the conditions laid down under section 438 (2) Cr. P.C.

The petitioner will cooperate in the investigation and will appear on notice under Section 41A of Cr. P.C. and comply with the condition as laid down under Section 438(2) of the Cr. P.C.’

In **Ram Govind Upadhyay vs. Sudarshan Singh and others**<sup>1</sup>, this Court noted that, though grant of bail is discretionary, it calls for exercise of such discretion in a judicious manner and not as a matter of course. It was observed that an order of bail, bereft of any cogent reason, could not be sustained.

6. Despite this legal position being well settled, it is unfortunate that the High Court did not deem it necessary to record as to what weighed with it while granting pre-arrest bail to the respondent. More so, as the accused, a member of a uniformed service, was holding the responsible position of Officer-in-Charge of a police station apart from being the Investigating Officer in the case, wherein he was alleged to have made a wrongful arrest by making alterations in the FIR.
7. The considerations that would normally weigh with the Court while dealing with a bail petition are the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors relevant in the facts and circumstances of the case. [See **State vs. Captain Jagjit Singh; Gurcharan Singh vs. State (Delhi Administration)**; and **State of Gujarat vs. Salimbhai Abdulgaffar Shaikh**]. Similar considerations would apply even for grant of anticipatory bail. Therefore, circumstances peculiar to

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<sup>1</sup> (2002) 3 SCC 598

the accused and the larger interest of the public or the State also have to be considered.

8. As stated by the learned Additional Sessions Judge, the alterations in the FIR are clearly visible and it is to be noted that the person who made the alterations did not even choose to initial the same. It cannot be said at this stage as to who made those alterations but being the Investigating Officer in relation to that FIR, it was the responsibility of the respondent to ensure its sanctity. The statement of the informant, Sanjay Kumar Sharma, recorded under Section 161 Cr.P.C, was also of relevance while considering the respondent's bail petition. He stated therein that, on 29.11.2021, Ranjeet Kumar Saw, son of Lakhan Saw, was apprehended with the Bolero vehicle, bearing Regn. No. JH10BY-4931, containing incriminating material, and he and his staff signed the arrest memo and seizure memos, which were not filled in full, in front of the respondent and his staff. He further stated that, trusting the respondent, they had signed those documents but, later, the respondent changed the father's name of the person apprehended and released him. In his place, he sent a different person to jail, viz., Ranjeet Kumar Saw, son of Balgovind Saw. According to the informant, it was only when he saw the photograph in the newspaper the next day that he noticed that some other person had been sent to jail, in the place of the person who was caught, and he informed the Police Inspector and the Deputy Commissioner of Police immediately.
9. In the light of these serious allegations made against no less than a senior police officer, an essential cog in the machinery of law enforcement, the High Court ought not to have taken a liberal view in the matter for the mere asking. Considering the position held by the respondent, even if he was suspended from service and the chargesheet had already been filed against him, the possibility of his tampering with the witnesses and the evidence was sufficiently high. That apart, grant of such relief to a police officer facing

allegations of manipulating the investigation so as to favour an accused would send out a wrong signal in society. It would be against public interest.

**10.** No doubt, none of the provisions under which the respondent is alleged to have committed offences entail imprisonment in excess of seven years and most of them were bailable offences. Ordinarily, an accused facing the prospect of incarceration, if proved guilty of such offences, would be entitled to the relief of pre-arrest bail. However, the same standard would not be applicable when the accused is the Investigating Officer, a police officer charged with the fiduciary duty of carrying forward the investigation to its rightful conclusion so as to punish the guilty. The respondent is alleged to have failed in this fundamental duty as a police officer. This consideration must necessarily weigh in with the nature of the offences and the possible punishment therefor. Presumptions and other considerations applicable to a layperson facing criminal charges may not carry the same weight while dealing with a police officer who is alleged to have abused his office.

**11.** We are, therefore, of the opinion that the High Court erred on counts more than one in passing the impugned bail order dated 06.07.2022.

The appeal is accordingly allowed, setting aside the said order. In the event the respondent is arrested in connection with Dhanwar PS Case No. 296 of 2021 and applies for regular bail, the same shall be considered on its own merits, appropriate to that stage, and in accordance with law uninfluenced by our observations hereinabove.

Pending IAs shall stand closed.

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