

Subhendu Mishra vs Subrat Kumar Mishra And Anr. on 22 February, 1999

Equivalent citations: AIR1999SC3026, 1999CRILJ4063, AIR 1999 SUPREME COURT 3026, 1999 AIR SCW 2955, 1999 ALLMR(CRI) 2 1682, 2000 SCC(CRI) 1508, (1999) 16 OCR 446

Bench: Chief Justice, M. Srinivasan, N. Santosh Kumar Hegde

JUDGMENT

1. Leave granted.
2. The bail granted to the appellant by the 2nd Additional Sessions Judge on 8th August, 1997 was cancelled by the High Court on 28th August, 1997 on a petition filed by the brother of the deceased. The State had, however, not chosen to question the grant of bail in the High Court.
3. We have perused the order of the High Court and heard learned Counsel for the parties.
4. In *Dolat Ram v. State of Haryana* while drawing a distinction between rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted, it was opined by this Court :

...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-bail-able case in the first instance and the cancellation of bail already granted.

5. These principles appear to have been totally lost sight of by the High Court while cancelling the bail. The High Court overlooked the distinction of the factors while cancelling the bail of the appellant in a rather mechanical manner. The order of the High Court, under the circumstances, cannot be sustained. The same is set aside and that of the 2nd Additional Sessions Judge dated 8th

August, 1997 is restored. Appeal is allowed accordingly.

6. Nothing said by the High Court or by us hereinabove shall be construed as any expression of opinion on the merits of the case. The trial Court shall expedite the trial.