

14. Naresh Kumar Mangala Vs Anita Agrawal & ors., (2021) 15 SCC 777,

15. Gurubaksh Singh Sibbia Vs St. of Punjab, 1980 (2) SCC 565

16. St. of M.P. Vs Pradeep Sharma, 2014 (1) RCR (Cr) 269.

(Delivered by Hon'ble Saurabh Srivastava, J.)

1. Heard Sri Rohan Gupta, learned counsel for petitioner, Sri Deepak Pandey, learned counsel for respondent no. 4 and Sri Anand Sagar Dubey, learned AGA-I appearing for respondent nos. 1 to 3.

Prayer

2. Present petition has been preferred with the following prayers:-

"i) To pass an appropriate order or direction setting aside the order dated 17.05.2024, to the extent it contains directions to the Investigating Officer to reinvestigate into role of the petitioner, while granting bail to the accused in paragraph no. 14 of the anticipatory bail order, passed by the Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar in Anticipatory Bail Application No. 1696/2024, arising out of First Information Report dated 08.08.2023, registered as Case Crime No. 148 of 2023 under sections 304-A, 420, 468 and 201 IPC, PS-Sector 126, District: Commissionerate Gautam Budh Nagar.

ii) To pass an appropriate order or direction, restraining the Investigating Officer from conducting any further investigation or inquiry against the petitioner-hospital in pursuance of the impugned directions contained in paragraph no. 14 of the anticipatory bail order dated

17.05.2024, passed by Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar in Anticipatory Bail Application No. 1696/2024, arising out of Case Crime no. 148 of 2023, under sections 304-A, 420, 468 and 201 IPC, PS- Sector 126, District: Commissionerate Gautam Budh Nagar."

3. The instant petition has been preferred at the behest of petitioner for assailing the legality of the order dated 17.05.2024 passed by learned Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar through which learned Sessions Court, directed the Inquiry Officer to re-investigate the role of the hospital in the matter.

Petitioner's submission

4. Learned counsel for petitioner submitted that the direction available under para 14 of the order dated 17.05.2024 was uncalled for since the same has been issued in anticipatory bail application no. 1696 of 2024 filed by Dr. Gyanendra Aggarwal against petitioner who has been exonerated in the charge sheet and was not even present before the learned Sessions Court and as such the direction for re-investigation has been passed without jurisdiction on the several other grounds inter alia precisely on the ground that re-investigation can only be ordered by higher courts which are constitutional courts i.e. the High Court and Hon'ble Supreme Court, moreover even further investigation can only be directed by a Magistrate when proper proceedings are initiated before the learned court concerned which in this case would be protest petition.

5. Learned counsel further tried to demolish the operation of the order dated 17.05.2024 through which although bail

has been granted to one Dr. Gyanendra Aggarwal but at the same time direction has been issued for re-investigation and there is no protest petition preferred by the informant and the directions issued in that regard by learned Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar amount to usurping the power of the Magistrate which could have been exercised by the Magistrate only when a protest petition was filed before the concerned court, itself.

6. It is further submitted that the order for re-investigation is completely without jurisdiction since the matter before the learned Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar was with regard to grant of anticipatory bail to the accused Dr. Gyanendra Agrawal and the exoneration of the petitioner was not the issue before learned Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar nor could be considered in these proceedings especially in absence of the petitioner.

7. For substantiating arguments raised by learned counsel for the petitioner, Sri Rohan Gupta, relied upon case of *Vinay Tyagi vs. Irshad Ali alias Deepak and others, 2013 (5) SCC 762* wherein it has been held by Hon'ble Apex Court that in case of fresh investigation, re-investigation or de novo investigation there has to be a definite order of the court. The order of the court unambiguously should state as to whether the previous investigation, for the reasons to be recorded, is incapable of being acted upon. Neither the Investigating Agency nor the Magistrate has any power to order or conduct 'fresh investigation'.

This is primarily for the reason that it would be opposed to the scheme of the Code. It is essential that even an order of "fresh"/"de novo" investigation passed by the higher judiciary should always be coupled with a specific direction as to the fate of the investigation already conducted. The cases where such direction can be issued are few and far between. This is based upon a fundamental principle of our criminal jurisprudence which is that it is the right of a suspect or an accused to have a just and fair investigation and trial. This principle flows from the constitutional mandate contained in Articles 21 and 22 of the Constitution of India. Where the investigation ex facie is unfair, tainted, mala fide and smacks of foul play, the courts would set aside such an investigation and direct fresh or de novo investigation and, if necessary, even by another independent Investigating Agency. As already noticed, this is a power of wide plenitude and therefore has to be exercised sparingly. The principle of the rarest of rare cases would squarely apply to such cases. Unless the unfairness of investigation is such that it pricks the judicial conscience of the Court, the Court should be reluctant to interfere in such matter to the extent of quashing an investigation and directing a "fresh investigation".

Respondent's submissions

8. Per contra, Sri Deepak Pandey, learned counsel appearing on behalf of respondent no. 4 vehemently opposed the prayer as made in the petition and rebutted the stand taken up by Sri Rohan Gupta, learned counsel for the petitioner and in reply it is submitted by Sri Deepak Pandey that the prospective accused has no locus standi to challenge a direction for

investigation for cognizable offence under Cr.P.C. before issuance of process against him. Since gross medical negligence and fabrication along with manipulation of medical records and destruction of evidences has been observed by learned Additional Sessions Judge while considering the anticipatory bail application of Dr. Gyanendra Aggrawal which culminated into passing direction for re-investigation.

9. In support of order dated 17.05.2024, it is also submitted by learned counsel for respondent no. 4 that power to grant bail under Section 438 Cr.P.C. is an extraordinary power which is to be exercised depending on the facts and circumstances of each case and as such there is no bar under Section 438 Cr.P.C. to direct further investigation. It is further submitted that Court cannot shut its eyes to the arbitrary, biased, mischievous and mysterious acts glaringly evident on records as well as in the charge sheet which compelled the learned Additional District & Sessions Judge-II/Special Judge (SC/ST) Act, District Court Gautam Buddha Nagar to pass an observation. The learned court after examining the material on records, reports and findings of expert committee is of the view that Dr. Gyanendra Agrawal and Jaypee Hospital were named in the FIR. However, the name of Jaypee hospital was mysteriously dropped in the final charge sheet, however the alleged manipulation of records whose custodian is the administration of Jaypee Hospital is a matter of concern before learned Sessions Court. Learned Additional Sessions Judge, took serious view as to fairness of investigation while dropping the name of Jaypee Hospital as accused from the charge sheet. It is further observed by learned Additional District and Sessions Judge

while passing order dated 17.05.2024 that however the act of hospital and doctor in alleged fabricating/manipulating the records is a matter of concern but the Court finds that the custodian of records is the administrative head of Jaypee Hospital and police has conveniently dropped the name of the hospital in the charge sheet for the reason best known to them and therefore the learned court directed the Inquiry Officer of the case to re-investigate the role of the hospital in the matter.

10. It is also submitted by learned counsel for respondent no. 4 that further investigation is permitted under Section 173(8) Cr.P.C. and further investigation and re-investigation are many times synonyms and as such prosecution cannot be scuttled, mini trial cannot be sought.

11. For substantiating the arguments raised by learned counsel for respondent no. 4, he relied upon judgment of ***Father Thomas vs. State of U.P. and another, 2011, CrI. L. J. 2278***, rendered by full Bench of Allahabad High Court. The ratio has been relied upon in another case of this Court i.e in case of ***Hussain Arif and another vs. State of U.P. and others*** passed in application under Section 482 Cr.P.C. no. 2562 of 2003 decided on dated 02.11.2011. He also relied upon the case of ***Srikant Upadhyay and others vs. State of Bihar & Another (2024) 3 SCR 421, Sushila Aggarwal vs. State (NCT of Delhi) [2020] 2 SCR 1, Savita Garg vs. The Director, National Heart Institute, (2004) 8 SCC 56, State through CBI vs. Hemendara Reddy, 2023 SCC online SC 515***. Judgment rendered by Calcutta High Court in case of ***Prabir Kumar Chatterjee vs. State of West Bengal and others, 2008 CRILJ 841***. Other judgments rendered by Hon'ble Apex Court such as ***Rama***

Chaudhary vs. State of Bihar, 2009 (6) SCC 346, Supriya Jain vs. State of Haryana and another, 2023 (7) SCC 711, Amit Kapoor vs. Ramesh Chander, 2012 (9) SCC 460, State of U.P. vs. Akhil Sharda and others, 2022 SCC Online SC 820, M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and others, 2021 (4) SCR 1044.

12. Sri Anand Sagar Dubey, learned AGA-I, also opposed the prayer as made in the petition and while supporting portion of the order dated 17.05.2024 passed by learned Additional District and Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar he submitted that in compliance of order dated 17.05.2024, further investigation is being conducted by the police against the Jaypee Hospital and the investigation vide all the previous case diaries is being considered along with and further investigation into the role of Jaypee Hospital in Case Crime no. 148 of 2023 in compliance of the order dated 17.05.2024 has been continuing and there is no bar under Section 438 Cr.P.C. for further investigation as issued vide order dated 17.05.2024 passed by learned Additional District and Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar. The said direction is also in conformity with the judgment of Hon'ble Supreme Court in case of *Naresh Kumar Mangala vs. Anita Agrawal and others, (2021) 15 SCC 777*.

13. Sri Anand Sagar Dubey, learned AGA-I further submitted that in view of the law settled by this Court as well as by Hon'ble Supreme Court, further investigation which is presently in progress is necessary to continue, to reach its logical conclusion in the interest of justice and no prejudice would be caused in any manner

to anyone with further investigation against the petitioner and as such the instant petition is not maintainable and is liable to be dismissed in the interest of justice.

Observations and Conclusion

14. After hearing the rival submissions extended by learned counsel appearing for the parties only two issues are involved for consideration before this Court are as under:

I. Whether learned Additional District and Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar, was empowered to pass an order for re-investigation?

II. Whether, learned Additional District and Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar while entertaining anticipatory bail application can pass other than the order from rejecting or allowing anticipatory bail application?

15. The entire arguments and the written submissions submitted by learned counsel for the parties over the request made by this Court at the time of reserving the judgment is broadly based on the competency of the learned Additional Sessions Judge for exercising its power in shape of issuing directing to concerned Investigating Officer to re-investigate the role of petitioner who has already been exonerated at the time of preferring report under Section 173(2) Cr.P.C. The majority of the judgments relied upon by learned counsel for the respondents crystal clearly demonstrated the issue of learned court concerned for directing the matter to be further investigated in pursuance to Section 173(8) Cr.P.C but at the same time, in the judgment relied upon by learned counsel

for the petitioner i.e. in case of **Vinay Tyagi (supra)**, the distinction between further investigation and re-investigation is crystal clearly defined. For adjudicating the controversy as raised through the instant petition, it is relevant to reproduce relevant para nos. 22, 23, 28, 29, 30, 40, 41 and 43 of the judgment of **Vinay Tyagi (supra)** which are as under:-

"22. 'Further investigation' is where the Investigating Officer obtains further oral or documentary evidence after the final report has been filed before the Court in terms of Section 173(8). This power is vested with the Executive. It is the continuation of a previous investigation and, therefore, is understood and described as a 'further investigation'. Scope of such investigation is restricted to the discovery of further oral and documentary evidence. Its purpose is to bring the true facts before the Court even if they are discovered at a subsequent stage to the primary investigation. It is commonly described as 'supplementary report'. 'Supplementary report' would be the correct expression as the subsequent investigation is meant and intended to supplement the primary investigation conducted by the empowered police officer. Another significant feature of further investigation is that it does not have the effect of wiping out directly or impliedly the initial investigation conducted by the investigating agency. This is a kind of continuation of the previous investigation. The basis is discovery of fresh evidence and in continuation of the same offence and chain of events relating to the same occurrence incidental thereto. In other words, it has to be understood in complete contradistinction to a 'reinvestigation', 'fresh' or 'de novo' investigation.

23. However, in the case of a 'fresh investigation', 'reinvestigation' or 'de

novo investigation' there has to be a definite order of the court. The order of the Court unambiguously should state as to whether the previous investigation, for reasons to be recorded, is incapable of being acted upon. Neither the Investigating agency nor the Magistrate has any power to order or conduct 'fresh investigation'. This is primarily for the reason that it would be opposed to the scheme of the Code. It is essential that even an order of 'fresh'/'de novo' investigation passed by the higher judiciary should always be coupled with a specific direction as to the fate of the investigation already conducted. The cases where such direction can be issued are few and far between. This is based upon a fundamental principle of our criminal jurisprudence which is that it is the right of a suspect or an accused to have a just and fair investigation and trial. This principle flows from the constitutional mandate contained in Articles 21 and 22 of the Constitution of India. Where the investigation ex facie is unfair, tainted, mala fide and smacks of foul play, the courts would set aside such an investigation and direct fresh or de novo investigation and, if necessary, even by another independent investigating agency. As already noticed, this is a power of wide plenitude and, therefore, has to be exercised sparingly. The principle of rarest of rare cases would squarely apply to such cases. Unless the unfairness of the investigation is such that it pricks the judicial conscience of the Court, the Court should be reluctant to interfere in such matters to the extent of quashing an investigation and directing a 'fresh investigation'.

28. Next question that comes up for consideration of this Court is whether the empowered Magistrate has the jurisdiction to direct 'further investigation'

or 'fresh investigation'. As far as the latter is concerned, the law declared by this Court consistently is that the learned Magistrate has no jurisdiction to direct 'fresh' or 'de novo' investigation. However, once the report is filed, the Magistrate has jurisdiction to accept the report or reject the same right at the threshold. Even after accepting the report, it has the jurisdiction to discharge the accused or frame the charge and put him to trial. But there are no provisions in the Code which empower the Magistrate to disturb the status of an accused pending investigation or when report is, filed to wipe out the report and its effects in law. Reference in this regard can be made to *K. Chandrasekhar v. State of Kerala* [(1998) 5 SCC 223]; *Ramachandra v. R. Udhayakumar* [(2008) 5 SCC 413], *Nirmal Singh Kahlon v. State of Punjab & ors.* [(2009) 1 SCC 441]; *Mithabhai Pashabhai Patel & ors. v. State of Gujarat* [(2009) 6 SCC 332]; and *Babubhai v. State of Gujarat* [(2010) 12 SCC 254].

29. Now, we come to the former question, i.e., whether the Magistrate has jurisdiction under Section 173(8) to direct further investigation.

30. The power of the Court to pass an order for further investigation has been a matter of judicial concern for some time now. The courts have taken somewhat divergent but not diametrically opposite views in this regard. Such views can be reconciled and harmoniously applied without violation of the rule of precedence. In the case of *State of Punjab vs. Central Bureau of Investigation* [(2011) 9 SCC 182], the Court noticed the distinction that exists between 'reinvestigation' and 'further investigation'. The Court also noticed the settled principle that the courts subordinate to the High Court do not have the statutory inherent powers as the High Court does under Section 482 of the Code and

therefore, must exercise their jurisdiction within the four corners of the Code.

40. Having analysed the provisions of the Code and the various judgments as afore-indicated, we would state the following conclusions in regard to the powers of a magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code :

40.1. The Magistrate has no power to direct 'reinvestigation' or 'fresh investigation' (de novo) in the case initiated on the basis of a police report.

40.2. A Magistrate has the power to direct 'further investigation' after filing of a police report in terms of Section 173(6) of the Code.

40.3. The view expressed in Sub-para 40.2 above is in conformity with the principle of law stated in *Bhagwant Singh's* case (supra) by a three Judge Bench and thus in conformity with the doctrine of precedence.

40.4. Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).

40.5. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the Court to the extent that even where the facts of the case and the ends of justice demand, the Court can still

not direct the investigating agency to conduct further investigation which it could do on its own.

40. 6. *It has been a procedure of proprietary that the police has to seek permission of the Court to continue 'further investigation' and file supplementary chargesheet. This approach has been approved by this Court in a number of judgments. This as such would support the view that we are taking in the present case.*

41. *Having discussed the scope of power of the Magistrate under Section 173 of the Code, now we have to examine the kind of reports that are contemplated under the provisions of the Code and/or as per the judgments of this Court. The first and the foremost document that reaches the jurisdiction of the Magistrate is the First Information Report. Then, upon completion of the investigation, the police are required to file a report in terms of Section 173(2) of the Code. It will be appropriate to term this report as a primary report, as it is the very foundation of the case of the prosecution before the Court. It is the record of the case and the documents annexed thereto, which are considered by the Court and then the Court of the Magistrate is expected to exercise any of the three options aforementioned. Out of the stated options with the Court, the jurisdiction it would exercise has to be in strict consonance with the settled principles of law. The power of the magistrate to direct 'further investigation' is a significant power which has to be exercised sparingly, in exceptional cases and to achieve the ends of justice. To provide fair, proper and unquestionable investigation is the obligation of the investigating agency and the Court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the Court, including that of the Magistrate or by the police of its*

own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.

43. *At this stage, we may also state another well-settled canon of criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct 'further investigation', 'fresh' or 'de novo' and even 'reinvestigation'. 'Fresh', 'de novo', and 'reinvestigation' are synonymous expressions and their result in law would be the same. The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection. "*

16. All the judgments of Hon'ble Apex Court as well as passed by different High Courts relied upon by learned counsel appearing for respondents is based upon powers conferred with the learned court concerned for issuing direction for further investigation specifically under Section 438 Cr.P.C. and 173(8) Cr.P.C. In judgment passed by Calcutta High Court in case of **Prabir Kumar Chatterjee (supra)** relied upon by learned counsel appearing for respondent no. 4 wherein, it has been held that Magistrate's order directing 'further investigation' or 're-investigation' is manifestly absurd or patently illegal or not and the learned Magistrate having assigned reasons, I do not think that the order complained of needs any interference.

Since both the words are synonyms, but the in judgment relied by learned counsel for the petitioner which has been rendered by Hon'ble Apex Court, the clarity and distinction between 'further investigation' and 're-investigation' has been clearly demonstrated in case of ***Vinay Tyagi (supra)*** decided on 13.12.2012 and as such the law enunciated by Hon'ble Apex Court will preside over the judgment rendered by any other court of law even after the same has been passed after relying upon the judgement of Hon'ble Apex Court available, referred, considered at that time.

17. Sri Anand Sagar Dubey, learned AGA-I appearing for State relied upon judgment passed by Hon'ble Apex Court in case of ***Naresh Kumar Mangla vs. Anita Agrawal and others (supra)*** decided on 17.12.2020 wherein the decision of the constitutional Bench in ***Gurubaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565*** has been relied upon and the same judgment has been relied by larger Bench consisting of five Judges of Hon'ble Apex Court in case of ***State of Madhya Pradesh vs. Pradeep Sharma, 2014 (1) RCR (Crl) 269*** wherein, it has been held that an order of anticipatory bail does not in any manner limit or restricts the rights or duties of police or Investigating Agency to investigate into the charges against the person who seeks and is granted pre-arrest bail.

18. After thorough scrutiny of the judgments relied upon by the learned counsels appearing for the parties as well as on the basis of arguments raised by them, the law is crystal clear in pursuance to the verdicts rendered by Hon'ble Apex Court and the distinction between 're-investigation' and 'further investigation' is broadly defined and distinguished. There is

hardly any ambiguity in respect of specific word 're-investigation' and 'further investigation'. If in any manner, learned court of Additional Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar was under impression to proceed further against petitioner but the direction contained under para 14 of the order dated 17.05.2024 is having direction in favour of the concerned Inquiry Officer for re-investigation in place of further investigation, moreover, learned Additional Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar was not having any jurisdiction and was not empowered either to pass direction to concerned Investigating Officer for further investigation or re-investigation. The gravity of re-investigation is much higher than further investigation and as such in catena of judgements rendered by Hon'ble Apex Court, the power of re-investigation has not been given to the other court of law especially below to the High Court. If in any case, High Court directs for re-investigation, the entire investigation carried out earlier has to be set aside by way of recording proper reasoning in support of direction for re-investigating the matter, whereas the direction for further investigation lies only with the mandate of procedure which is available under Section 173(8) Cr.P.C. but while granting anticipatory bail, in favour of one of the co-accused, learned court of Additional Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar was not empowered to direct concerned Investigating Officer even for further investigation also.

19. In the light of the reasoning recorded above issue no. I is hereby decided that learned court of Additional District and Sessions Judge-II/Special

Judge, SC/ST Act, Gautam Buddha Nagar was not having any power provided as per law for passing an order of re-investigating the matter in reference of the petitioner.

20. With regard to issue no. II, learned counsel for the petitioner specifically took a ground while submitting written submissions that there was hardly any occasion available before learned Additional District and Sessions Judge-II/Special Judge, SC/ST Act, Gautam Buddha Nagar to pass any other order except rejecting or allowing the anticipatory bail application preferred at the behest of Dr. Gyanendra Aggarwal. The issue before the learned Sessions Judge was for consideration of anticipatory bail filed by Dr. Gyanendra Aggarwal and there was no other issue under Section 438 Cr.P.C to deal with other matters and the observations made by learned Sessions Judge was uncalled for and moreover on the basis of the observation, the direction issued to concerned Investigating Officer for re-investigation is liable to be set aside.

21. In view of the aforementioned facts and circumstances and discussions made in the light of the judgments as referred above rendered by Hon'ble Apex Court as well as by different High Courts, part of the direction, contained in order dated 17.05.2024 under para no. 14 specifically issuing direction to concerned Investigating Officer for re-investigation, is hereby set aside.

22. The instant petition stands *allowed* accordingly.

(2025) 2 ILRA 99
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 21.02.2025

BEFORE

THE HON'BLE SAURABH SRIVASTAVA, J.

Matters Under Article 227 No. 15602 of 2024

Rajesh Kumar Sharma **...Petitioner**
Versus
State of U.P. & Ors. **...Respondents**

Counsel for the Petitioner:
 Deepak Pandey, Lavlesh Kumar Sharma

Counsel for the Respondents:
 G.A.

Criminal Law-The Constitution of India, 1950-Article 227 - The Code of Criminal Procedure, 1973-Section 439(2)---Bail cancellation application can only be preferred under Section 439(2) Cr.P.C--- The procedure has not mandated for seeking cancellation of bail through preferring petition under Article 227 of the Constitution of India and the prayer made in the instant petition for seeking quashing the order only to the extent insofar as it considers the non-bailable offences against the respondent as bailable and granted anticipatory bail to the respondent cannot be considered since the same is directly seeking cancellation of the bail as extended in favour of respondent.

Petition dismissed. (E-15)

List of Cases cited:

1. Srikant Upadhyay & ors. Vs St. of Bihar & ors., 2024 (3) SCR 421
2. Abdul Basit Vs Mohd. Abdul Kadir Chaudhary, 2014 (10) SCC 754

(Delivered by Hon'ble Saurabh Srivastava, J.)

1. Heard Sri Deepak Pandey, learned counsel for petitioner, Sri Anand Sagar Dubey, learned AGA-I for respondent no. 1 and Sri Rohan Gupta, learned counsel for respondent no. 2.