

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.1215 of 2025**

Arising Out of PS. Case No.-11 Year-2023 Thana- Cyber P.S. District- Aurangabad

Rajesh Kumar Singh S/o Sri Kumar Yogendra Narayan Singh R/o Sityog Prodyogiki Sansthan (Sityog Institute of Technology), Jasoiya Mod, P.S.- Town, Distt- Aurangabad. At present R/o Sankula Tower, Sector - 8/B, Plot -D, Near St. Joshef Church, CBD Belapur, Navi Mumbai, Konkan Bhavan, Thane, Maharashtra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s	:	Mr.Rajeev Kumar Singh, Advocate Mr. Gyanendra Kumar Diwakar, Advocate Mr. Mohit Ranjan, Advocate Mr. Harsh Raj, Advocate Mr. Kumar Abhishek, Advocate
For the State	:	Mr.Md. Fahimuddin, APP
For the Accused	:	Mr. Bipin Kumar, Advocate Mr. Ravi Kant, Advocate Mr. Abhishek Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA  
ORAL JUDGMENT**

**Date : 16-12-2025**

Heard learned counsel for the petitioner and learned APP for the State as well as learned counsel appearing on behalf of accused Rakesh Kumar @ Bablu.

02. The instant criminal revision petition has been filed against the order dated 13.10.2025 passed by learned Additional Chief Judicial Magistrate 1st, Aurangabad in Aurangabad Cyber P.S. Case No. 11 of 2023, G.R. No. 2074 of 2023, whereby and whereunder the application filed on behalf of the informant, for taking into consideration the occurrence of



24.05.2024, while framing the charge, has been rejected.

03. Learned counsel for the petitioner submits that the petitioner is the informant of Aurangabad Cyber P.S. Case No. 11 of 2023 which was lodged on 04.08.2023 under Sections 420, 467, 468, 471, 120B of the Indian Penal Code and Section 66 D of I.T. Act. The petitioner was cheated of an amount of Rs.5,60,600/-. Subsequently, the informant/petitioner received another fraudulent call on 23.05.2024 asking him to do certain things for claiming the defrauded amount and the collar himself introduced to be an official of cyber cell. The petitioner immediately informed the police authorities and consequently, accused Rakesh @ Bablu was apprehended on 24.05.2024 and seizure list was prepared for the article seized from the accused. The confession of the accused was also recorded. Learned counsel thus submits that the arrest of the accused, recording of his confessional statement and preparation of seizure list are part of same transaction, arising out of FIR of Aurangabad Cyber P.S. Case No. 11 of 2023. The charge sheet has been submitted on 21.07.2024 taking into consideration all the occurrences which have taken place from 22.06.2023 till the arrest of the accused Rakesh Kumar @ Bablu on 24.05.2024 and thereafter, cognizance has been taken on 26.07.2024 under



Sections 420, 467, 468, 471, 120B of the Indian Penal Code and Section 66D of I.T. Act. However, when the charges were framed on 21.08.2024, the period of occurrence was specified from 22.06.2023 till 28.07.2023, omitting the incident of 23.05.2024 without assigning any specific reason. Thereafter, an application was filed on behalf of the informant/petitioner on 16.09.2025 for addition/alteration of charge taking into accounts the incident of 23.05.2024 as the part of same transaction. But the learned trial court vide order dated 13.10.2025 rejected the prayer for addition/alteration of charge which is under challenge.

04. Learned counsel further submits that the learned trial court made an erroneous observation while taking into consideration Section 215 of the Code of Criminal Procedure (in short 'the Code') for rejecting the prayer of alteration of charge. In the present case, the provision of Section 215 of the Code is not applicable. Learned counsel further submits that on the other hand Section 220(1) of the Code provides that if, a series of acts are so connected so as to form the same transaction, then offences more than one committed by same person could be charged together and tried in one trial.



In the present case, the acts of the accused form part of a series of transaction and he could be charged for the same considering it a single transaction. Reference has been made to the case of *Mohan Baitha and others Vs. State of Bihar and another*, AIR 2001 Supreme Court 1490, wherein the Hon'ble Supreme Court clarified what constitutes same transaction and observed as under:-

*"... It may be noticed that under Section 220 of the Code of Criminal Procedure, offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of acts, so as to form the same transaction. The expression "same transaction" from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and the ordinary use of language must decide whether on the fact of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same*



*transaction. But the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the factors for deciding whether certain acts form parts of the same transaction or not. Therefore a series of acts whether are so connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria ..."*

Thus, the learned counsel submits that as the incident of 23.05.2024 is part of same transaction, the learned trial court committed an error when it refused to alter/amend the charge. Therefore, the order of learned trial court is not sustainable as the same suffers from material irregularity and illegality.

05. Learned APP as well as learned counsel appearing on behalf of accused oppose the submission made on behalf of the petitioner. Learned counsel for the accused submits that the learned trial court has rightly passed the order taking into consideration Section 215 of the Code and observed that if the date sought to be incorporated as one of the dates the incidents is taken into consideration, it will affect the proper



adjudication in the matter. Learned counsel further submits that the learned trial court took into consideration the contents of FIR and found that there was no basis for changing the date of occurrence even on account of prosecution evidence and therefore, it has rightly passed the order.

06. I have given my thoughtful consideration to the rival submission of the parties. Section 216 of the Code provides for alteration in charge, which reads as under:-

*"216. Court may alter charge:- (1) Any Court may alter or add to any charge at any time before judgment is pronounced.*

*(2) Every such alteration or addition shall be read and explained to the accused.*

*(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court to prejudice the accused in his defence or the prosecutor in the conduct of the case the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.*

*(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court to prejudice the accused or the prosecutor as*



*aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.*

*(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction had been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded."*

Therefor, charge can be amended or altered any time before the judgment is pronounced. Thereafter, Section 220 of the Code reads as under:-

**"220. Trial for more than one offence.- (1)**  
*If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.*

*(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in Sub-Section (2) of section 212 or in Sub-Section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence*



*or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.*

*(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.*

*(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, or such acts.*

*(5) Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860)."*

The plain reading of the provision makes it clear that if the offences are committed by the same person in same transaction, the such person could be tried at one trial.

07. In the facts and circumstances of the present case, it is clear that the incident dated 23.05.2024 forms part of



same transaction, hence it should be reflected while framing of the charge. However, the learned trial court has acted mainly on the ground that the occurrence took place during 22.06.2023 to 28.07.2023 and there was no mention of occurrence of 23.05.2024 in the FIR. Charges are to be framed on the material available before the court which are the investigation report, commonly known as police papers. When the occurrence dated 23.05.2024 and 24.05.2024 have been mentioned at the time of filing of charge sheet, the same were relevant for the purpose of framing of charge. The learned trial court was duty bound to look into all papers available before it while framing of charge and omission to take into consideration all the papers makes the order improper. The charge sheet mentioned that the charge sheet was submitted take into consideration the seizure list, confessional statement and other available materials. But the learned trial court omitted to consider these facts and passed an erroneous order. So, the impugned order suffers from material irregularity and impropriety and hence, the order dated 13.10.2025 is set aside.

08. Accordingly, the present criminal revision petition stands allowed.

09. The learned trial court is directed to consider



the prayer of the petitioner made in the application dated  
16.09.2025 in the light of observation made hereinbefore.

**(Arun Kumar Jha, J)**

DKS/-

<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	NA
<b>Uploading Date</b>	17.12.2025
<b>Transmission Date</b>	17.12.2025

