

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41192 of 2015

Arising Out of PS.Case No. -176 Year- 2015 Thana -ATHMALGOLA District- PATNA

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1. Shashi Kant Yadav, Son of Sri Bindeshwari Singh, Resident of village Chanda, P.S. Athmalgola, in the district of Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma

For the Opposite Party/s Mr. Manoj Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

05/ 03.11.2015 Heard learned counsel for the petitioner as well as learned

Addl. Public Prosecutor for the State.

Show cause is filed on behalf of Shashi Kant Yadav who happens to be petitioner in this case and seeks bail in Athmalgola P. S. case no. 176/2015.

During the pendency of this petition, it was brought to the notice of this court that the petitioner was granted bail by Sri Ashutosh Kumar, Judicial Magistrate, Ist Class, I/C S.D.J.M, Barh, Patna vide his order dated 16.9.2015 particularly, in the circumstance when bail petition of the petitioner was pending before this court.

This court called for a report from Sri Ashutosh Kumar, Judicial Magistrate, Ist Class, I/C S.D.J.M, Barh, Patna and in response thereto, the concerned court submitted his report vide letter no. 246 dated 1.10.2015 mentioning this fact that in para 2 of bail petition, petitioner did not mention the factum of pendency of bail petition before this court and accordingly, it was informed by the

concerned court that actual fact was suppressed by the petitioner and hence, the court was misled by the petitioner. The concerned court also reported that bail to the petitioner was granted on the ground of compromise.

I am surprised and shocked to see the aforesaid explanation because the petitioner could have raised the plea of compromise before this court and this court could have considered the aforesaid plea but in stead of bringing the aforesaid fact to the notice of this court, petitioner approached court below on the ground of compromise and, therefore, the conduct of the petitioner in the court below reflects something else.

Considering the facts and circumstances as well as submissions of the parties, I have no option but to cancel the bail granted to the petitioner by Sri Ashutosh Kumar, Judicial Magistrate, Ist Class, I/C S.D.J.M, Barh, Patna vide his order dated 16.9.2015 in Athmalgola P. S. case no. 176/2015. Hence, the bail granted by the court below in the above stated case is, hereby, cancelled.

Accordingly, petitioner is directed to surrender before the concerned court within three weeks from today and if the petitioner does so and seeks regular bail, the concerned court shall consider his regular bail petition on its own merit without being prejudiced by this order.

Since this petition has become infructuous, it stands disposed of.

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(Hemant Kumar Srivastava,J)

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