

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35403 of 2012

The State of Bihar through Senior Superintendent of Police,

.... Petitioner/s

Versus

Kallu Rai

.. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shyameshwar Dayal

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

11/ 01.07.2015

Heard learned Addl. Public Prosecutor for the State and
perused the record.

This petition has been filed for cancellation of bail granted
to the opposite party vide order dated 20.12.2010 passed in Cr. Misc.
no. 39418/2010 in connection with Danapur P.S. Case no. 62/2010.

Learned Addl. Public Prosecutor sought cancellation of bail
granted to the opposite party on the ground that after being released
from jail custody, petitioner committed three offences for which first
information reports were lodged against him. Learned Addl. Public
Prosecutor drew my attention towards para 3 of the supplementary
affidavit and submitted that Danapur P.S. Case no. 69/2011 dated
1.3.2011 was lodged against the petitioner for the offence under
section 386/34 of the Indian Penal Code and 27 of the Arms Act for
demand of extortion money and the aforesaid fact was verified in
course of investigation by collecting call details and accordingly,
charge sheet was submitted in the above stated case. He further
pointed out that again, Danapur P.S. Case no. 395/2011 for the



offence under section 400 of the Indian Penal Code and sections 25 (i-b), 26, 35 of the Arms Act was registered against him while opposite party assembled to make preparation for committing dacoity and managed to escape from the place of occurrence and in the aforesaid case, again, chare sheet was submitted against opposite party. He also pointed out that Danapur P.S. Case no. 254/2012 for the offences under sections 399, 400, 402 of the Indian Penal Code sections 25 (i-b)A, 26, 35 of the Arms Act was registered against opposite party and in the aforesaid case, investigation is going on.

Learned Addl. Public Prosecutor pointed out that opposite party is habitual offender and this court could hardly succeed to get notice served upon him because opposite party is in habit of changing his house.

No doubt, after bail granted to opposite party in Danapur P.S. Case no. 62/2010, altogether three cases were registered against him but admittedly, in two cases, which were registered for making preparation for committing dacoity, opposite party was neither arrested on the spot nor anything was recovered from his conscious possession and name of opposite party came in the aforesaid cases in the confessional statements of co-accused who were caught on the spot. So far third case is concerned, it would appear from perusal of para 3 of the supplementary affidavit that according to the prosecution case, aforesaid offence was committed while petitioner had been lodged inside the jail.

Therefore, in my view, mere institution of the above stated three cases is not sufficient ground to presume that petitioner is threat

to the society and, therefore, I do not find any ground to cancel the bail of the opposite party.

Accordingly, this cancellation petition stands dismissed on admission stage itself.

Shahid

(Hemant Kumar Srivastava,J)

