

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22407 of 2016

Arising Out of PS.Case No. -147 Year- 2015 Thana -BIHPUR
District- BHAGALPUR

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1. Shahnaz Khatoon daughter of Md. Shakoor, Resident of
village- Birbanna Muslim Tola, P.s.- Bihpur (Bhawanipur),
District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar

2. Md. Bechan @ Md. Ayub @ Md. Yakub Ali @ Yakub Ali,
son of Md. Jamal, Resident of village- Birbanna Muslim Tola,
P.S.- Bihpur (Bhawanipur), District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda

For the Opposite Party/s : Mr. Braj Kishore Pd. (App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

2 29-11-2016

Heard the parties.

The opposite party No. 2 was on police bail in
connection with Bihpur (Bhawanipur) P.S. Case No. 147 of
2015, registered for the offences punishable under Sections
447, 376, 511, 504 and 506/34 of the Indian Penal Code to
which subsequently Section 8 of Protection of Children from
Sexual Offence Act was added. Subsequently the police

submitted charge-sheet. Thereafter, the opposite party No. 2 applied for anticipatory bail in the Court of learned 1st Additional Sessions Judge, Bhagalpur, which came to be allowed by an order dated 23.01.2016.

This application, under Section 439(2) of the Code of Criminal Procedure, has been filed seeking cancellation of bail granted to opposite party No. 2 by virtue of the order, dated 23.01.2016, passed by learned 1st Additional Sessions Judge-cum-Special Judge (POCSO Act) Bhagalpur.

Learned counsel for the petitioner has submitted that once the opposite party No. 2 was on police bail, his anticipatory bail ought not have been maintained by the learned 1st Additional Sessions Judge, Bhagalpur. He has submitted that on this ground alone, bail granted to the opposite party No. 2 deserves to be cancelled.

Learned counsel for the petitioner may be correct in his submission that when opposite party No. 2 was on police bail; there was no need for him to have applied for anticipatory bail and learned 1st Additional Sessions Judge, Bhagalpur, ought not to have entertained his application granting bail. There is no allegation, however, that after having availed the privilege of bail, the opposite party No. 2 ever misused the same in any manner whatsoever. I,

therefore, do not find it a fit case for cancellation of bail.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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