

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43613 of 2014
Arising Out of PS.Case No. -220 Year- 2013 Thana -BISFI
(PATAUNA) District- MADHUBANI

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Lalit Kumar Safi son of Mahabir Safi, resident of Village-Ajanauli,
P.S.-Bisfi (Patauna), District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Chandra Paswan @ Srichan Paswan, Son of Late Ayodhi Paswan
3. Yogi Yadav Son of Late Asarfi Yadav Both are Resident of Ajanauli, P.S.-Bisfi (Patauna), District-Madhubani.
4. Pram Sah Son of Mauze Sah
5. Gokhul Sah Son of Yogiendra Sah, both are Resident of Village-Yadupatti, P.S.-Bisfi (Patauna), District-Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Opposite Party/s : Mr. J.K. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

5 13-07-2016 The present petition has been filed for cancellation of bail granted by order dated 09.09.2014 in Cr. Misc. No. 23779 of 2014 relating to Bisfi P.S. Case No. 220 of 2013, Trial No. 3933 of 2013 pending in the court of the learned Judicial Magistrate, Madhubani for the offences under Sections 341, 504, 323, 379, 34 of the Indian Penal Code and Sections 3(i)(x) of the SC/ST Act.

2. Learned counsel for the petitioner submits that the opposite party no. 2 has obtained anticipatory bail from this Court after disclosing his prior involvement in Bisfi (Patauna) P.S. Case No. 315 of 2012 and has thereby suppressed that he has been made accused in two other cases, namely, Bisfi (Patauna) P.S. Case No.

104 of 2011 and Bisfi (Patauna) P.S. Case No. 107 of 2014. It is, therefore, submitted that anticipatory bail granted to opposite party no. 2 is liable to be cancelled.

3. Learned counsel for the petitioner in his rejoinder has also got on record the fact that the opposite party no. 5 was made accused in Complaint Case No. 1346 of 2010 and cognizance has been taken under Sections 324, 342, 337, 379 and 384 of the Indian Penal Code, but the same was not disclosed in the bail petition.

4. Learned counsel for the opposite parties, on the other hand, submits with regard to opposite party no. 2 that no willful suppression has been made in the anticipatory bail petition and declaration of only one prior criminal case was wholly bonafide. It is pointed out that as regards Bisfi (Patauna) P.S. Case No. 104 of 2011, the opposite party no. 2 had no knowledge about the same at the time of filing of the bail petition, and came to know of it only upon receiving notice in the present case. It appears that though the opposite party no. 2 was made accused in the case registered on 19.05.2011, after due investigation the police had submitted final form dated 30.06.2011 finding the case to be false and thereafter the matter remained pending as no cognizance was taken.

5. As regards Bisfi (Patauna) P.S. Case No. 107 of 2014, it is submitted that the opposite party no. 2 had no knowledge of the said case which was registered on 02.06.2014, on which date the anticipatory bail petition was already in the process of being

filed before this Court. It is further stated that thereafter, charge sheet was submitted on 19.02.2015 only under bailable sections of the Indian Penal Code and cognizance had not been taken.

6. As concerns the opposite party no. 5, it is submitted that Complaint Case No. 1346 of 2010 was inadvertently missed to be stated in the bail petition, however the accusation against the opposite party no. 5 are general and omnibus in nature involving minor penal sections, and the bail order was passed after noticing the submission that the ingredients of the offence under SC/ST Act were not made out. Significantly, the opposite party no. 5 was granted bail on the merits of the submissions made and without reference to his criminal antecedents. It is submitted that there is also no averment that the opposite parties have misused the privilege of anticipatory bail.

7. Taking an overall view of the matter, this Court does not find it a fit case for cancellation of bail granted to the opposite parties. Criminal Miscellaneous No. 43613 of 2014 stands dismissed.

(Vikash Jain, J)

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