

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.718 of 2016

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1. Brajendra Jha, S/O Late Surendra Jha 'Suman'.

2. Usha Devi, W/O Brajendra Jha.

Both resident of Mohalla- Rajkumarganj, Mirjapur, Darbhanga,
North of Trilokinath Mandir and West of Darbhanga Radio Station,
P.S.- Darbhanga, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Radha Nath Jha, S/O of Raghunath Jha, resident of Village-
Mangrauni, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kr. Jha, Adv.

Mr. Surya Kant Mishra, Adv.

Mr. Sushil Kr. Jha, Adv.

For the Respondent/s : Mr. Shankar Kumar Thakur, Adv.

Mr. Hari Mohan Mishra, Adv.

Mr. Ganesh Pd. Singh, APP

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

ORAL JUDGMENT & ORDER

Date: 25-11-2016

The petitioners, above named, were granted the
privilege of anticipatory bail by this Court *vide* order, dated
16.09.2014, in Cr. Misc. No. 21133 of 2014, which contained

a condition, *inter alia*, that they will be required to appear before the court below on each and every date till disposal of the case and in case of failure on two consecutive occasions, the liberty granted to them shall be deemed to be cancelled.

2. It is the case of the petitioners that because of some communication gap and out of some other compelling circumstances; they could not present themselves before the court below on 04.01.2016 and 20.01.2016, which led to cancellation of their bail bonds. After having realized, they filed an application before the court of learned Chief Judicial Magistrate, Madhubani, explaining the circumstances as to why they could not present themselves before the learned court below on 04.01.2016 and 20.01.2016. Learned Chief Judicial Magistrate accepted their explanation and allowed them to go on bail by an order dated 27.02.2016.

3. The informant, thereafter, filed an application, under Section 439(2) of the Code of Criminal Procedure, before the court of learned Sessions Judge, Madhubani, seeking cancellation of bail granted to the petitioners *vide* order, dated 27.02.2016. Learned Sessions Judge by an order, dated 17.06.2016, passed in Cr. Misc. Nos. 18/2016 and 32/2016, has allowed the application filed by the informant, on the ground that there was no application of mind on the part of learned Chief Judicial Magistrate and

grant of bail was against judicial propriety and judicial discipline, in the light of conditions laid down by this Court *vide* order, dated 16.09.2014, passed in Cr. Misc. No. 21133 of 2014.

4. The order, dated 17.06.2016, passed by learned Sessions Judge, Madhubani, is being assailed in the present criminal revision application filed under Section 397 read with Section 401 of the Code of Criminal Procedure.

5. I have heard learned counsel for the petitioners and learned counsel appearing on behalf of the respondents.

6. After having given anxious consideration to the special facts and circumstances of the present case, I am of the considered view that learned Sessions Judge, Madhubani, ought not to have cancelled the bail granted to the petitioners. The order, dated 17.06.2016, cannot be sustained in the facts and circumstances of the present case.

7. Accordingly, the order, dated 17.06.2016, passed by learned Sessions Judge, Madhubani, in Cr. Misc. Nos. 18/2016 and 32/2016, is set-aside.

8. This application is allowed.

9. It is made clear that the conditions as imposed by this Court, while granting the petitioners the privilege of anticipatory bail, in connection with Complaint Case No. 322

of 2013, *vide* order dated 16.09.2014, passed in Cr. Misc. No. 21133 of 2014, shall be strictly ordered to and the petitioners shall be bound by the said conditions as mentioned therein.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25/11/2016
Transmission Date	25/11/2016