

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31897 of 2016

Arising Out of PS.Case No. -45 Year- 2014 Thana -
INDUSTRIAL District- BHAGALPUR

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1. Shambhu Ram son of Late Kailash Ram resident of
village Mansarpur, Police Station Industrial, District
Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar

2. Vijay Prasad Singh Son of Dina Ram resident of village
Mansarpur , P.S. Industrial, District Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Mishra

For the Opposite Party/s : Mrs. Renu Kumari

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

ORAL ORDER

2 05-12-2016

Heard the parties.

By an order, dated 25.07.2014, passed by the
learned Sessions Judge, Bhagalpur, in ABP No. 1463 of 2014,
arising out of Industrial P.S. Case No. 45 of 2014, opposite
party No. 2 has been granted anticipatory bail. The said case
has been lodged for commission of offence under Section 302
read with Section 34 of the Indian Penal Code.



For seeking cancellation of anticipatory bail it has been argued on behalf of the petitioner that it was wrong exercise of discretion by learned District and Sessions Judge, Bhagalpur, resulting into grant of bail to opposite party No. 2. It has been submitted that considering the seriousness of the occurrence the privilege of anticipatory bail ought not to have been granted by the learned court below. It has secondly been submitted that opposite party No. 2 is threatening the petitioner and his family members and pressurizing them not to pursue the case. It has also been submitted that the petitioner has filed an informatory petition before the court of learned Chief Judicial Magistrate, Bhagalpur, in this regard.

Upon perusal of the order passed by the learned Sessions Judge, I find that the court below granted opposite party No. 2 the privilege of anticipatory bail in view of the evidence collected in course of investigation that the deceased had been suffering from various ailments because of which he died.

Learned counsel for the petitioner has submitted that this fact is incorrect as in the post-mortem report, chest injuries were found.

Upon perusal of the materials available on the record and consideration of submissions advanced on behalf of the petitioner, I do not find any case for cancellation of bail



is made out. Merely on the allegation that the opposite party No. 2 threatening the witnesses, bail already granted cannot be cancelled. The petitioner is said to have filed an application before the court of learned Chief Judicial Magistrate, Bhagalpur, making an allegation of misuse of the privilege of bail. He may make an application before the learned Chief Judicial Magistrate stating therein as to how opposite party No. 2 is misusing the privilege of bail.

If any such application is filed, the learned Chief Judicial Magistrate may inquire into the matter and if it is found upon such enquiry that opposite party No. 2 is misusing the privilege of bail, it is indicated that the learned court below can persuade towards cancellation of the bail of opposite party No. 2.

With the above observation, this application stands disposed of.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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