

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26717 of 2016

Arising Out of PS.Case No. -37 Year- 2016 Thana -EKANGARSARAI District-
NALANDA (BIHARSHARIFF)

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Ramu Chaudhary, S/o Karu Chaudhary, Resident of Village-
Chamherah, P.S.-Ekangarsarai, District-Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

2. Lakashman Rajak, S/o Heera Rajak, Resident of Village-
Chamherah, P.S.-Ekangarsarai, District-Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyamal Prakash

For the Opposite Party/s : Mr. Arbind Kumar Pandey

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

ORAL ORDER

- 2 29-11-2016 The petitioner has filed this application, under
Section 439(2) of the Code of Criminal Procedure, seeking
cancellation of regular bail granted to the opposite party No.
2 by an order, dated 05.05.2016, passed by learned 1st
Additional Sessions Judge, Hilsa (Nalanda), in B.P. No. 82 of
2016, registered for the offences punishable under Sections
307/34 of the Indian Penal Code (IPC) to which Section 302
of the IPC was subsequently added after the victim (mother



of the informant) died.

The opposite party No. 2 is named in the First Information Report. It transpires that some quarrel had taken place between the parties. Allegedly, the named accused persons including the opposite party No. 2 entered into the house of the informant, armed with Lathi and Danda. It is alleged against the opposite party No. 2 that he gave a Lathi blow on the head of the mother of the informant, which caused head injuries. Subsequently, the mother of the informant, namely, Daulati Devi, died.

Learned counsel, appearing on behalf of the petitioner, seeking cancellation of bail granted to opposite party No. 2, has submitted that despite opposite party No. 2 being the main assailant, learned court below has wrongly granted him regular bail, merely after two months he was taken into custody. He has relied upon a Supreme Court decision, in case of *Puran Rambilas & Anr. / Shekhar & Anr. Vs. State of Maharashtra & Anr.*, reported in (2001) 6 SCC 338, and has submitted that it is a wrongly exercise of jurisdiction of discretion by the Court of learned Sessions Judge, Nalanda, whereby, the opposite party No. 2 came to be granted regular bail.

I have perused the order passed by the learned Sessions Judge, Nalanda, whereby the opposite party No. 2



granted regular bail. The said order has been passed after perusing the case diary. It seems that it emerged in course of investigation by the police, on the basis of evidence of independent witnesses, that a quarrel had taken place between both the sides in which both sides had received injuries. One Karu Chaudhary was said to have assaulted the mother of opposite party No. 2 also on her hand. A picture emerges from the perusal of the impugned order that there was a free fight between the parties. If considering the facts and circumstances in such case, the learned Sessions Judge granted opposite party No. 2 regular bail, I do not find any reason to cancel the bail so granted to him. It cannot be said to be a completely wrongly exercise of discretion by the learned court below while grants regular bail to the opposite party No. 2

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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