

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28009 of 2016

Arising Out of PS.Case No. -220 Year- 2015 Thana -LALIT NARAYAN UNIVERSITY District-
DARBHANGA

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1. Baby Pandey @ Baby Kumari wife of Late Sudhir Pandey, resident of
Village- Nazipur, P.S.- Rahika, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Babloo Paswan Son of Raj Deo Paswan, resident of Mohalla- Chuna
Bhatthi, P.S.- L.N.M.U. Darbhanga, District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate

For the Opposite Party/s : Md.Shahanwaz Ali, Advocate for O.P.No.2

For the State : Mr. Ganesh Prasad Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 26-10-2016 Heard learned counsel for the petitioner and the learned

counsel appearing on behalf of the Opposite Party No. 2 as well as

learned A.P.P. for the State.

The privilege of anticipatory bail was granted to the
Opposite Party No. 2 Babloo Kumar Paswan @ Bablu Kumar
Paswan @ Babloo Paswan vide order dated 18.05.2016 passed in
Cr. Misc. No. 15771 of 2016 with condition as laid down under
Section 438 (2) of the Cr. P.C.

The petitioner seeks cancellation of the privilege of bail
granted to the Opposite Party No.2 on the ground that he misled
the Court by submitting that he had been charge sheeted on



29.09.2015 whereas he was not charge sheeted on the said date. In that regard, by order dated 05.10.2016 a report had been called for from the Superintendent of Police, Darbhanga as to when the said Opposite Party No. 2 had been chargesheeted. A report has come from Senior Superintendent of Police, Darbhanga stating therein that in L.N.M.U. P.S. 220/2015 charge sheet No. 111/2016 dated 08.06.2016 under Sections 493, 341, 323 and 504 of the I.P.C. has been submitted in Court on 10.06.2016. Thus, Opposite Party No. 2 has furnished false statement before this Court.

However, learned counsel appearing on behalf of the Opposite Party No. 2 submits that the date of charge sheet was due to inadvertent mistake mistake for which no adverse inference be drawn amounting to misuse of privilege of bail. He submits that ordinarily the privilege of anticipatory bail is not cancelled unless there are allegations of misuse of the privilege of bail in any manner or there is chance of absconding or putting any obstruction in trial of this case. He submits that none of the grounds has been pointed out by the petitioner, the only ground is of the different dates of submitting the charge sheet. In this connection, he relies on the judgment and order passed by this Court in the case of **Bihar Co-operative Sugar Factories Federation Ltd. Vs. state of Bihar and Anr. since reported in 2004 (1) P.L.J.R. 664** and

also the case of **Dolat Ram Vs. State of Haryana reported in (1995) 1 in Supreme Court cases - 349** wherein the Hon'ble Apex Court has categorically stated the cogent reasons for the ground of cancellation of bail at para-4 of the said judgment, which is re-produced herein below:-

“ Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive): interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the Court, on the basis of material placed on the record of the possibility of accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of the High Court when it decided to cancel the bail,

already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non boilable case in the first instance and the cancellation of bail, already granted”.

None of the aforesaid grounds have been pointed out by the petitioners, hence, the application for cancellation of bail has no merit and deserves to be dismissed.

(Nilu Agrawal, J)

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