

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3661 of 2016

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Sitaram Singh son of Late Keshari Singh, resident of Village- Bihari, P.S. & District - Jamui.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gagan Singh, S/o Late Rabindra Prasad Singh, resident of Mohalla-
Bihari, P.S. & District- Jamui.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate

For the Opposite Party/s : Smt. Meena Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 27-01-2016 Heard Mr. S.P. Parasar, learned counsel for the

petitioner.

This application has been filed for modification of
the order passed in Criminal Misc. No. 52843 of 2015 to the
extent of amending the memo of parties itself.

According to Mr. S.P. Parasar, counsel for the
petitioner, there are two accused by the name of Sitaram Singh in
the Complaint Case No. 369(C) of 2014 having a different
parentage. It is submitted that the anticipatory bail application
bearing Criminal Misc. No. 52843 of 2015 had to be filed on
behalf of the accused Sitaram Singh son of Late Keshari Singh but
due to confusion it was filed in the name of accused no. 5 Sitaram
Singh son of Jayant Singh who was granted anticipatory bail by



this Court vide order passed on 14.12.2015. Mr. Parasar with reference to the order of the court below placed at Annexure-2 to this application has submitted that the accused no. 5 Sitaram Singh, son of Jayant Singh has already been enlarged on bail by the Chief Judicial Magistrate, Jamui on 07.7.2015 and thus there was no occasion for him to again seek anticipatory bail by this Court.

Be that as it may, considering that the Vakalatnama on record of the proceedings in Criminal Misc. No. 52843 of 2015 reads in the name of Sitaram Singh son of Jayant Singh, in my opinion, a relief granted to the said petitioner cannot be translated in favour of any other accused even if it has taken place by virtue of identical names carried by the accused. The consequences flowing from an error committed cannot be rectified nor the order passed in the case of the said petitioner be transferred in favour of another petitioner by altering the memo of parties itself which would be an absurdity.

In the circumstances and considering the statement made in this modification application as well as the circumstances reflecting from the order of the court below placed at Annexure-2 of this application regarding grant of bail to Sitaram Singh son of Jayant Singh by the Chief Judicial Magistrate, Jamui on

07.7.2015, the order granting bail dated 14.12.2015 passed by this Court in Criminal Misc. No. 52843 of 2015 is rendered innocuous and hence stands recalled. In result Criminal Misc. No. 52843 of 2015 is disposed of as not pressed.

Insofar as the accused petitioner herein Sitaram Singh son of Keshri Singh is concerned, it shall be open for him to seek his remedy by filing an independent application. The order dated 14.12.2015 passed in Criminal Misc. No. 52843 of 2015 stands modified to that extent.

This application is allowed.

(Jyoti Saran, J)

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