

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20081 of 2015

Arising Out of PS.Case No. -297 Year- 2004 Thana -TAJPUR District- SAMASTIPUR

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Rita Devi, w/o Late Gopal Choudhary, Resident of village - Malpur Jorpura, P.S. -
Tajpur (Halai O.P.), Distt - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chandra Shekhar Choudhary, S/o late Vyasdeo Chaudhary, Resident of village -
Malpur Jorpura, P.S. - Tajpur (Halai O.P.), Distt - Samastipur.
3. Dipak Kumar Choudhary, S/o Chandra Shekhar Choudhary, village - Malpur
Jorpura, P.S. Tajpur (Halai O.P.), Distt Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Harsh Singh, Advocate. Mr. Ravi Shankar Chaudhary, Advocate.
For the Opposite Party/s	:	Mr. Bhanu Pratap Singh, APP. Mr. Sunil Kumar Thakur, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 12-08-2016

Heard learned counsel for the petitioner, learned A.P.P. for
the State and learned counsel for the opposite parties no. 2 and 3.

The present application has been filed seeking cancellation
of the anticipatory bail earlier granted to the Opposite parties no. 2
and 3 by order dated 04.03.2015 in Cr. Misc. No. 41001 of 2014
relating to Tajpur (Halai O.P.) P.S.Case No. 297 of 2004 dated
28.10.2004 instituted under Sections 364/302/201/34 of the Indian
Penal Code.

Learned counsel for the petitioner submits that initially



Opposite parties no. 2 and 3 had stated in their application that they had clean antecedent, but the same is incorrect as both the Opposite parties no. 2 and 3 had criminal antecedent. Learned counsel further submits that co-accused Jay Ram Choudhary had also approached the High Court seeking anticipatory bail and the same was rejected by order dated 08.09.2015 by a co-ordinate Bench of this Court in Cr.Misc. No. 14812 of 2015.

Learned counsel has referred to a decision of the Hon'ble Supreme Court in the case of **Lavesh v. State (NCT of Delhi)** reported as **(2012) 8 SCC 730**, relevant being at paragraphs no. 12, 13 and 14, for the proposition that though the Opposite parties no. 2 and 3 were named accused but have evaded the due process of law by not appearing before the Investigating Agency for almost ten years and, thus, they are not entitled for such privilege and that they are evading appearance in other cases.

Learned counsel for the Opposite parties no. 2 and 3 fairly submits that the stand in the application that they had clean antecedent was incorrect. He further submits that the Court may pass appropriate orders.

Having considered the facts and circumstances of the case and the submissions of learned counsel for the parties, the Opposite parties no. 2 and 3 having taken the advantage of anticipatory bail and

one of the major considerations that they have clean antecedent, turning out to be a false statement as also the fact that the Hon'ble Supreme Court in the case of **Lavesh** (supra), the Court is of the view that the Opposite parties no. 2 and 3 do not deserve the privilege of anticipatory bail. Accordingly, the anticipatory bail granted to the Opposite parties no. 2 and 3 on 04.03.2015 in Cr.Misc. No. 41001 of 2014 stands cancelled.

Opposite parties no. 2 and 3 are directed to appear before the court below within two weeks from today and seek regular bail.

Upon the same being done, the court below shall consider the prayer for bail of the Opposite parties no. 2 and 3 in accordance with law without being prejudiced by the present order.

The application stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	