

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40331 of 2016

Arising Out of PS.Case No. -180 Year- 2013 Thana -SHRIKRISHNAPURI District- PATNA

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1. Rahbar Abdin S/o Sarwar Abdin Proprietor Sandhya Gyan Bharti Shop
No.-22, Pushpanjali Complex, Boring Road, P.S.- Sri Krishna Puri, District-
Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Chandra Mauleshwar Sharma S/o Uday Sharma R/o Bazar Islampur,
P.S.- Kokshi, District- Gaya. Presently at beside the Up-to-Date Book Shop,
Gali No-4, Ram Vilash Chowk, Postal Park, P.S.- Kankarbagh, District-
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 05-12-2016 This application seeking cancellation of bail granted to the opposite party No. 2 has been filed under Section 439(2) of the Code of Criminal Procedure. The opposite party No. 2 has been granted anticipatory bail by an order dated 12.01.2016 passed in Criminal Miscellaneous No. 1018 of 2016 in connection with S.K. Puri P.S. Case No. 180 of 2013 registered for the offence punishable under Sections 420, 406 and 120B of the Indian Penal Code.

The sole ground for cancellation of bail granted in favour of opposite party No. 2 is that before passing of the said order dated 12.01.2016, process under Sections 82,83 of the Code



of Criminal Procedure had been issued and, therefore, in the light of Supreme Court decision, anticipatory bail ought not have been granted to the opposite party No. 2.

Once privilege of bail has been granted to the opposite party No. 2, same may be cancelled when it is indicated that the person, who has been granted bail, has misused the privilege of bail, in any manner whatsoever. There is no such averment in the application. It cannot be denied that in exceptional circumstance, the propriety of grant of bail can also be looked into by this Court in exercise of power under Section 439(2) of the Code of Criminal Procedure in the light of Supreme Court decision in the case of ***Prakash Kadam & Ors. Vs Ram Prasad V. Nath Gupta and another*** reported in ***(2011)6 SCC 189***. But, such is not the situation in the present case.

I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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