

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18557 of 2017

Arising Out of PS.Case No. -14 Year- 2016 Thana -PATNA COMPLAINT CASE District- PATNA
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Sanjay Kumar Sinha, son of Late Manmohan Prasad, Proprietor of M/s. Patna Solar System, Nutan Maha Laxmi Complex, Near C.D.A. Office Building, Police Station-Gandhi Maidan, Disrtrict-Patna.

.... Petitioner.

Versus

1. The State of Bihar.
2. Om Prakash Bhardwaj, son of Jawahar Lal Bhardwaj, M/s. Akshya Urja, Shop N.H. 31, Traffic Chowk, Sona Jageshwar Complex, Begusarai-851101. Presently, residing at Mohalla-Ashok Nagar, Ward No.36, Police Station-Town, District-Begusarai.

.... Opposite Parties.

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Appearance :

For the Petitioner : M/s. Ashok Chaudhary & Raj Narayan Mishra, Advocates.

For the State : Mr. Sakir Ahmad, A.P.P.

For the O.P. No.2 : M/s. S.N.P. Sinha, Senior Advocate and Sandip Kumar Gautam, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

3 28-06-2017 Let the counter affidavit filed on behalf of the opposite party no.2 be kept on the record.

Heard the parties.

This application, under Section 439(2) of the Code of Criminal Procedure, has been filed on behalf of the petitioner to cancel the anticipatory bail granted to the opposite party no.2 by this Court vide order dated 15.02.2017 passed in Criminal Misc. No.53188 of 2016 in connection with Complaint Case No.14 of 2016.

Learned counsel for the petitioner submits that while



the petitioner was accused in Darbhanga A.P.M. Case No.84 of 2015 registered under Sections 447, 153(A), 188, 353 and 295(A) of the Indian Penal Code and also in Complaint Case No.2651(C) of 2016 registered under Sections 406 and 420 of the Indian Penal Code besides Section 138 of the Negotiable Instruments Act, pending in the court of the Chief Judicial Magistrate, Patna, but in Criminal Misc. No.53188 of 2016, filed on behalf of the opposite party no.2 to grant him anticipatory bail, the said fact was concealed. As such, the order dated 15.02.2017 passed by this Court in Criminal Misc. No.53188 of 2016 granting anticipatory bail to the opposite party no.2 in connection with Complaint Case No.14 of 2016 may be cancelled.

Learned Senior Counsel appearing on behalf of the opposite party no.2 submits that due to not proper information furnished by the pairvikar of the opposite party no.2, in paragraph-3 to Criminal Misc. No.53188 of 2016 with respect to the criminal antecedent of the opposite party no.2, Darbhanga A.P.M. Case No.84 of 2015 could not be stated and so far as Complaint Case No.2651(C) of 2016 is concerned, in the said case, the petitioner had not received notice at that time. Further submission is that in Darbhanga A.P.M. Case No.84 of 2015, on investigation, the final form has been submitted by the police on 11.03.2016. It is further



submitted that at the time of allowing the prayer of the opposite party no.2 for grant of anticipatory bail on 15.02.2017 vide Criminal Misc. No.53188 of 2016, the learned counsel for the petitioner was also heard. Learned Senior Counsel appearing on behalf of the opposite party no.2 tenders apology for non mentioning of Darbhanga A.P.M. Case No.84 of 2015 at paragraph-3 to Criminal Misc. No.53188 of 2016 at the time of filing of the same, with regard to criminal antecedent of the opposite party no.2. It is also submitted that after grant of anticipatory bail vide order dated 15.02.2017 passed in Criminal Misc. No.53188 of 2016 by this Court in connection with Complaint Case No.14 of 2016, the opposite party no.2 has not misused the privilege of anticipatory bail granted to him nor he has tried to tamper with the evidence.

From perusal of the order dated 15.02.2017 passed by this Court in Criminal Misc. No.53188 of 2016, it appears that at the time of allowing the prayer of the opposite party no.2 for grant of anticipatory bail, the learned counsel for the petitioner was also heard.

Having regard to the facts and circumstances of the case, I do not find any compelling reason to cancel the anticipatory bail granted to the opposite party no.2 vide order



dated 15.02.2017 passed in Criminal Misc. No.53188 of 2016 in
connection with Complaint Case No.14 of 2016.

Accordingly, this application stands dismissed.

(Rajendra Kumar Mishra, J)

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