

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.891 of 2017

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Anil Kumar Sah @ Anil Sah, Son of Jai Prakash Sah, R/o village- Laxmi Kitta,
District- Banka.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-10-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This revision application is directed against order
dated 19.07.2017 passed by the A.C.J.M.-IV, Banka in Dhoraiya
P.S.Case No. 256 of 2016, whereby bail earlier granted to the
petitioner has been cancelled on the ground that later on victim died
as a result of assault and Section 302 of the Indian Penal Code was
added though prior to that, FIR was instituted only under Sections
341, 323, 379, 504 and 506 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that once
the petitioner was granted regular bail, in the circumstances of change
of nature of the case his bail cannot be cancelled, as he has not
misused the privilege of bail. Learned counsel placed reliance to a



decision of this Court in the case of ***Sita Ram Singh & Anr. vs. State of Bihar*** reported in ***2002(2) BLJR 859***.

4. Contrary to that, learned counsel for the State submits that since the case turned into a case of murder, petitioner's bail is liable to be cancelled, as he was granted bail in a case registered under Sections 341,323,379,504 and 506 of the Indian Penal Code.

5. It appears that allegation is that all accused persons indiscriminately assaulted the informant by *lathi*, *danda* and bricks but later on he succumbed to injury, so Section 302/34 of the Indian Penal Code was added in the FIR. The trial court has rightly held that in such nature of case, petitioner's bail is liable to be cancelled. In case of ***Hamida vs. Rashid*** reported in ***2007 Cr. L.J.342(SC)*** as well as in the case of ***Prahlad Singh Bhati vs. NCT Delhi*** reported in ***2001(4) SCC 280***, the Apex Court has held that with the change of nature of the offence, accused becomes disentitled to the liberty granted to him in relation to a minor offence, if the offence is altered for an aggravated crime. In case where the offence is punishable with death or imprisonment for life which is triable exclusively by a court of sessions, the Magistrate may, in his wisdom, refrain to exercise the powers of granting bail and to refer the accused to approach the higher courts unless he is fully satisfied that there is no reasonable ground for believing that accused has been guilty of an offence punishable with



death or imprisonment for life.

6. In the present context also, earlier petitioner was granted bail by a Magistrate in a minor offence and later on the case turned to a case of murder consequently Section 302 of the Indian Penal Code has been added, so the learned Magistrate has rightly cancelled the bail.

7. The application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2017
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