

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6578 of 2014

Arising Out of PS.Case No. -156 Year- 2011 Thana -CHANPATIA District- WESTCHAMPARAN
(BETTIAH)

- =====
1. Bhulan Bin, S/o Late Badha Bin, Resident of Village Nuniama Tola, P.S Chanpatiya, District West Champaran, Bettiah
 2. Lachhan Bin, S/o Bhulan Bin, Resident of Village Nuniama Tola, P.S Chanpatiya, District West Champaran, Bettiah.

.... Petitioners

Versus

1. The State of Bihar
2. Sukai Mukhiya, Son of late Jai Mukhiya, Resident of Village Nuniyaba, P.S. Chanpatiya, District West Champaran, Bettiah

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Surendra Kishore Thakur, Advocate
For the State : Mr. A.M.P. Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 19-07-2017

This application is filed by the petitioners under Section 482 Cr.P.C., 1973 for setting aside order dated 17.12.2013, passed by learned Chief Judicial Magistrate, West Champaran, Bettiah in connection with Chanpatiya P.S. Case No.156 of 2011 whereby he has cancelled the bail bond of the petitioners on the ground that later on after lodging of FIR, Section 302 of IPC is added.

2. Learned counsel for the petitioners submits that parameters of the granting bail and cancellation are quite different. Once bail is granted, it should not be cancelled unless there is any allegation of tampering of evidence or misuse of privilege of bail and places reliance in the case of *Sita Ram Singh v. State of Bihar*,



reported in 2002 (1) PLJR 693.

3. Learned Additional Public Prosecutor submits that the FIR was lodged under Sections 341, 323, 379, 447 and 504/34 of IPC, considering the nature of offence bail was granted by the Magistrate under Section 437 Cr.P.C. but later on after few days injured during treatment succumbed to injury, so Section 302 was added later on in the FIR, so the case turns into a case of murder and these petitioners become disentitled for liberty and rightly bail was cancelled.

4. Having considered the submissions, it appears that earlier petitioners were granted bail under Section 437 Cr.P.C. considering the nature of case that is allegation of assault and theft whereas it turned to be a case of murder later on, the injured succumbed to the injury and Section 302 IPC added in the FIR. In view of Section 437(i) an accused cannot be released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life provided that the court may direct to be released if such person is under the age of sixteen years or is a woman or is sick or infirm. Moreover facts of the present case are covered by judgments rendered in the case of *Hamida v. Rashid*, (2008) 1 SCC 474 and *Prahlad Singh Bhati v. NCT, Delhi*, reported in (2001) 4 SCC 280. In the case of *Prahlad Sinh Bhati* (supra) the Apex Court observed that with the change of the nature of



the offence, the accused becomes disentitled to the liberty granted to him in relation to a minor offence, if the offence is altered for an aggravated crime. Since the facts of this case and orders passed by the court below are fully covered by this finding of the Apex Court in the case of *Prahlad Singh Bhati* (supra), I do not find any merit in this application.

5. This application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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