

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2264 of 2017

=====

1. Umashankar Prasad Advocate Civil Court, Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General Of Police, Bihar, Patna.
3. The Home Secretary, Govt. Bihar, Patna.
4. The Superintendent of Police, Patna.
5. The Deputy Superintendent of Police, Patna.
6. The In Charge Police Station, Mehadiganj, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Umashankar Prasad, Advocate
For the State	:	Mr. Lalit Kishore, PAAG-1
		Mr. Manish Dhari Singh, AC to PAAG-1
For Respondent No.9		Mr. Sanat Kr. Mishra, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 15-05-2017

Based on a communication received on 8th of February, 2017 from an advocate of this Court, the matter was taken up *suo motu*, registered as a writ petition and Shri Lalit Kishore, learned Principal Additional Advocate General-1, was directed to seek instructions and respond to the notice issued and Shri Arvind Kumar, learned counsel, was appointed as *amicus curiae* to assist the Court in disposal of the matter.

In the communication submitted by the counsel, it was pointed out that after release of the accused persons detailed therein



on bail by various Courts, including this Court, they have unleashed a campaign of terror causing intimidation and harassment to the lawyer and is pressurizing him to withdraw the cases filed.

Taking note of the aforesaid, Shri Lalit Kishore was directed to seek instruction and take action in accordance with law. It was also proposed by this Court that notices be issued to all concerned, namely the accused persons who had been enlarged on bail, asking them to show cause as to why their bail should not be cancelled.

Various counter affidavits from the competent police authorities have been filed which go to show that after causing certain enquiries, the accused persons have been re-arrested, taken into custody and proceedings are going on for cancellation of their bail. It is pointed out that some of the accused persons have surrendered and as on date all are in custody.

On 21st of February, after examining various aspects of the matter, this Court had directed that all the applications for anticipatory bail and regular bail in connection with Mehdiganj P.S. Case Nos.28 of 2015, 35 of 2016, 5 of 2017 and 2 of 2017 shall be listed before this Court and, accordingly, certain applications are placed before this Court for consideration today.

Taking note of the circumstances in which the case was



registered as a writ petition and action was taken on the basis of complaint filed by the advocate, the complainant and now as the police authorities have taken action, the only question warranting reconsideration is as to whether the bail granted to the accused persons should be cancelled or any further directions issued with regard to their release on bail. This question, in our considered view, should be left open to be considered by the concerned criminal court where the matter is pending or which had granted bail to the accused persons as, under law, the right to cancel the bail vests on the court which granted bail.

That being so, as the consequential actions, based on the complaint of the advocate, have been taken by the State Government, it is not necessary to further proceed with this writ proceeding. Instead, interest of justice would be served if directions are issued to the concerned Court which had granted bail to the accused persons to consider the question of grant of bail to the accused persons or to cancel the bail granted, after hearing all concerned and following such procedure as is contemplated under law for the said purpose.

Accordingly, for the present, we dispose of the matter with the following directions:

The accused persons who have been arrested or have surrendered may file appropriate application for bail before the



competent Court which is entitled, under law, to grant them anticipatory or regular bail or file application before the same Court which had granted bail and where the process for cancellation of bail is now to be initiated in accordance with the directions issued by this Court in this writ petition.

The Court concerned shall proceed in the matter either for grant of bail or for cancellation of bail in accordance with law and take a decision after hearing all concerned.

With the aforesaid, this writ petition stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.5.2017
Transmission Date	N/A

