

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45651 of 2016

Arising Out of PS.Case No. -1 Year- 2016 Thana -KAKO District- JEHANABAD

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Ujjawal Kumar, Son of Madan Sharma, Resident of Village-Karauta, P.S.-
Salimpur, District-Patna at Present Posted as Assistant Electrical Engineer,
Electric Supply Division, Sherghati, earlier Jehanabad, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

2. Arvind Kumar, Son of Late Prasadi Singh, resident of Ashiana Digha,
Road, Near Zee School, Rajeev Nagar, Patna, P.S. Shastri Nagar, Patna-25.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kirti Singh, Sr. Adv.

Mr. Akhileshwar Singh, Adv.

For the Opposite Party/s : Mr. Manoj Kumar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

3 08-02-2017

Heard the parties.

An Assistant Electrical Engineer, Electric Supply
Division, Sherghati, Gaya has filed this application seeking
cancellation of bail allowed to opposite party No. 2 *vide* order,
dated 20.05.2016, passed in Cr. Misc. No. 18342 of 2016, in
connection with Kako P.S. Case No. 01 of 2016.

Learned senior counsel, appearing on behalf of the



petitioner, has drawn my attention to this Court's order, dated 20.05.2016, from which it appears that considering the ground taken on behalf of the petitioner that he had never lifted a transformer in question, application for anticipatory bail of opposite party No. 2 was allowed. He has submitted that the said stand taken on behalf of the opposite party No. 2, while seeking anticipatory bail, was palpably false. He has drawn my attention to a communication, dated 04.01.2016, made by opposite party No. 2, which has been brought on record by way of Annexure-1, in order to submit that opposite party No. 2 had, in fact, lifted the transformer, which was misappropriated.

This is to be noted that there is no finding in the order, dated 20.05.2016, that the petitioner had not lifted the transformer. Facts in the said order have been taken into account only for consideration of anticipatory bail of the petitioner. Observations made therein are merely tentative in nature.

It is not the stand of the petitioner that opposite party No. 2 has misused the privilege of bail after having granted such concession.

In the facts and circumstances of the case, I do not find it to be a fit case for exercise of power under Section



439(2) of the Code of Criminal Procedure by cancelling bail granted to opposite party No. 2.

This application has no merit and is, accordingly, rejected.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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