

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.290 of 2017

- =====
1. Jai Prakash Sah, Son of Late Kamaladhari Sah
 2. Anil Kumar Sah @ Anil Sah, Son of Jai Prakash Sah
 3. Roshan Sah, Son of Thakur Sah

All resident of village - Laxmi Kitta, Police Station Dhuraiya, District – Banka.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party

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Appearance :

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

For the State : Mrs. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 16-03-2017

Heard the parties.

2. By the impugned order, dated 16.01.2017, passed in Dhuraiya P.S. Case No. 256 of 2016 (G.R. No. 3232 of 2016), learned Additional Chief Judicial Magistrate-IV, Banka has cancelled bail granted to the petitioners. The First Information Report was registered for the offence punishable under Sections 341, 323, 379, 504 and 506 of the Indian Penal Code. The petitioners were allowed regular bail. Subsequently, Section 302 of the Indian Penal Code was added, whereafter, the court below



cancelled the bail so granted by the impugned order dated 16.01.2017. The said order, dated 16.01.2017, is being assailed in the present application.

3. Learned counsel, appearing on behalf of the petitioners, has submitted that petitioner No. 1, namely, Jai Prakash Sah, has been arrested and, therefore, he seeks withdrawal of the application to the extent it relates to petitioner No. 1.

4. This application, accordingly, stands dismissed as withdrawn as it relates to petitioner No. 1.

5. Learned counsel for the petitioners has submitted that before cancellation of bail, it was obligatory for the Court to have given the petitioners an opportunity of being heard. Without any notice to them, the court below has cancelled the bail on the ground of addition of Section 302 of the Indian Penal Code.

6. Learned Additional Public Prosecutor, appearing on behalf of the State, has not controverted the contention that in the absence of any notice to the petitioners, the court could not have cancelled the bail earlier granted to the petitioners.

7. Considering the above, the order, dated 16.01.2017, passed by the learned Additional Chief Judicial Magistrate-IV,



Banka, to the extent it relates to petitioner Nos. 2 and 3 is set-aside. The court below will be at liberty to pass an order afresh after giving them an opportunity of hearing.

8. This application is, accordingly, allowed as it relates to petitioner Nos. 2 and 3.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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