

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49350 of 2017

Arising Out of PS.Case No. -127 Year- 2012 Thana -JAYNAGAR District- MADHUBANI

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1. Bishnudeo Yadav, S/o Late Mahabir Yadav,
2. Ram Chandra Yadav S/o Late Bal Govind Yadav,
Both are R/o Village- Khaira Tol, P.S.- Jainagar, District- Madhubani.
..... Petitioner/s

Versus

The State of Bihar
..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

For the Opposite Party/s : Mr. Sri Nirmal Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 15-11-2017 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

At an earlier occasion petitioner Bishnudeo Yadav was granted bail under Criminal Miscellaneous No.5310/2013 vide order dated 22.02.2013 while Ram Chandra Yadav was granted bail vide Criminal Miscellaneous No.5669/2013 order dated 26.02.2013 but subsequently the effect of aforesaid orders were recalled at the instance of informant who challenged the same under Criminal Miscellaneous No.33830/2013 as well as Criminal Miscellaneous No.42312/2013 vide order dated 19.11.2014 wherein it was observed “Hence, holding that the Opposite Parties did not play a fair game with the Court and suppressed material facts bail granted to them by orders dated 26.02.2013 & 22.02.2013 are, hereby, cancelled.” The aforesaid order was challenged before the Apex Court under SLP(Crl.)



No.7408-7409/2015 which was dismissed on 08.05.2015.

Petitioners have revive their prayer on the ground that the reference of a case with regard thereto, the court took adverse to the petitioners bearing Jai Nagar P.S. Case No.120/1982 wherein petitioners were convicted, found extinguished on account of acquittal under Cr. Appeal No.266/1993 vide judgment and order dated 11.07.2017. After the aforesaid event, the status has changed and that being so, the dismissal of prayer by the Apex Court will not over shadow the prayer of the petitioners. That being so, considering the fact that on merit of the case petitioners were granted bail by this Court, be allowed to enjoy the privilege.

The learned Additional Public Prosecutor assisted by the learned counsel for the informant has submitted that once the matter has been adjudicated upon by the superior court then, in that event, it will not be prudent to deliberate as, the previous order merged with the order of the superior court. That being so, petitioner's prayer would not be entertainable.

Considering the rival submission, it is found and held that after dismissal of the SLP by the Apex Court certainly previous order, as referred hereinabove merged with the aforesaid order and on account thereof, this Court would not be in a position to pass order contrary thereto.



That being so, prayer for bail is rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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