

HIGH COURT OF CHHATTISGARH, BILASPUR
Cr.M.P.No.1359 of 2016

Nisha Mahilane, W/o Shri Ashwani Kumar, aged 29 years,
 Asst. Teacher (Panchayat), Govt. Primary School, Bhanwarchuan,
 P.S. Basna, District Mahasamund (CG)

---- Applicant

Versus

1. State Of Chhattisgarh Through the Station House Officer, Police Station Basna, District Mahasamund (CG)
2. Shamshad Khan, S/o Mohd. Habib Khan, aged about 28 years, Asst. Teacher, R/o Rengerpara Sarangarh, District Raigarh (CG)

---- Respondents

For Applicant	:	Mrs.Meena Shashtri, Advocate
For Non-applicant No.1	:	Mr.Majid Ali, P.L.
For Non-applicant No.2	:	Mr.S.N.Nande, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/06/2017

1. The applicant has filed this petition under Section 482 of the CrPC for cancellation of bail granted to non-applicant No.2-Shamshad Khan by the Special Judge (Atrocities)/Sessions Judge, Mahasamund under Section 439 of the CrPC.
2. Learned counsel for the applicant would submit that no reason has been assigned by the Special Judge/Sessions Judge for admitting the privilege of regular bail to the accused under Section 439 of the CrPC. She would place reliance upon the judgment of the Supreme Court in the matter of **State of Bihar Vs. Rajballav Prasad alias Rajballav Prasad Yadav alias Rajballabh Yadav**¹.
3. On the other hand, learned State Counsel and learned counsel for non-applicant No.2 would oppose the petition.

¹ (2017) 2 SCC 178

4. I heard heard learned counsel for the parties and considered their rival submissions made hereinabove.

5. The Special Judge/Sessions Judge while granting bail to non-applicant No.2 has clearly observed that there is delay in lodging the FIR and looking to the old acquaintance and relationship between the parties, accused is entitled to regular bail.

6. According to FIR, date of offence is prior to 6.8.2016 and written complaint has been made on 13.8.2016. Thus, it cannot be held that no reason has been assigned by learned Special Judge/Sessions Judge for enlarging the accused on bail and order granting bail is perverse. I do not find any merit in this petition.

7. Accordingly, the petition being without substance is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-