

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3765 of 2018

Arising Out of PS.Case No. -366 Year- 2017 Thana -ARA NAGAR District- BHOJPUR

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1. Mahesh Yadav S/o Late Indradeo Yadav, R/o Village- Bhaluhipur, P.S.- Ara Town, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Indra Bhan Singh S/o Late Lallan Singh, R/o K.G. Road, Ara, P.S.- Ara, District- Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
For the Opposite Party/s : Mr. D.K.Sinha, Senior Advocate
For the State : Mr. Anil Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 16-05-2018 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

The petitioner has earlier moved for cancellation of bail by the learned court below vide order dated 03.11.2017 passed in Ara Town P.S. Case No. 366 of 2017.

In pursuance of the order date 07.10.2017 passed in Cr. Misc. No. 45527 of 2017 in which there was direction to verify the fact that save and except allegation as mentioned in three cases as (i) Koilwar P.S. Case No. 163 of 2015 (ii) Ara Nawada Town P.S. Case No. 248 of 2015 and (iii) Ara Nawada Town P.S. Case No. 153 of 2014, nothing has been brought against the petitioner and he shall release on bail to his own satisfaction, otherwise he is free to pass any order as he deems fit and proper.

Submission of the learned counsel of the petitioner is



that a report was called for by the learned court below from which it appears that five cases were pending against the petitioner but in spite of that he has enlarged the opposite party no. 2 on bail and he is precluded from enlarging the petitioner on merit in view of Section 437(2) of Cr.P.C. In this connection, he has placed reliance on a case reported in (2001)4 SCC 280 and submission of two more cases in which learned court below is granted bail which is bad in law and not sustainable.

Heard learned APP as well as learned counsel for Opposite Party No. 2. Learned counsel for opposite party no. 2 submit that as a matter of fact, out of five cases, he has been acquitted in two cases, as such he has been granted bail.

Having heard both the parties and considering the view and circumstances, it appears that the opposite party no. 2 has concealed his criminal antecedent as he is accused in five cases, and not in three cases, however, learned court concerned inspite of same, has granted bail to the Opposite Party No. 2.

Accordingly, the present application is allowed the bail granted by the court below to opposite party no. 2 stands cancelled. The petitioner is directed to surrender within a period of six weeks and file fresh application, which will be considered on the merit of the case.

(Vinod Kumar Sinha, J)

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