

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4632 of 2018

Arising Out of PS. Case No.-104 Year-2017 Thana- ARIYARI District- Sheikhpura

Ashok Kumar Rajak, S/o Late Sita Ram Rajak, R/o village & P.O. Hussainabad, P.S.- Ariyari, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Alok Kumar, S/o Late Kapildeo Prasad, R/o Village & P.O. Hussainabad, P.S.- Ariyari, District- Sheikhpura. At present Mukhiya Gram Panchayat Hussainabad, P.S.- Ariyari, District- Sheikhpura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Zeyaul Hoda
For the State	:	Mr. Nazir Ansari, APP
For Opposite Party No.2	:	Mr. Ajay Kumar Thakur, Mr. Biresh Kumar Sinha, Mr. Nilesh Kumar & Mr. Malay Kumar Chaudhary, Advocates

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. ORDER

8 29-08-2018 Heard learned counsels for the petitioner and the opposite parties.

This application is for cancellation of anticipatory bail granted to opposite party no. 2 in connection with Ariyari P.S. Case No. 104 of 2017 vide order dated 15.11.2017 passed in Cr. Misc. No. 43740 of 2017.

Learned counsel appearing for the petitioner submits that opposite party no.2 had obtained bail from this Hon'ble Court after suppressing material facts which is evident from the order sheet that opposite party no. 2 is having no criminal antecedent, whereas he is accused in three cases bearing Ariyari P.S. Case No. 139 of 2017 registered under section 406, 409,



420, 467, 468, 471/34 of the Indian Penal Code, Ariyari P.S. Case No. 98 of 2015 registered under sections 279, 337 and 338 of the Indian Penal Code and Ariyari P.S. Case No. 140 of 2017 registered under section 323, 307/34 of the Indian Penal Code. Learned counsel has brought on record the copy of the aforesaid F.I.Rs as Annexures- 2, 3 & 4 respectively to this application. Learned counsel further submits that after getting bail from this Hon'ble Court, the opposite party no. 2 alongwith others are threatening witnesses of the case which amounts to tampering the evidence. In this regard Sanha Case No. 1020 of 2017 has been registered before the Chief Judicial Magistrate, Sheikhpura on 22.12.2017.

Learned counsel appearing for the opposite party no. 2 submits that the present petitioner is not the informant of Ariyari P.S. Case No. 104 of 2017, and as such, he has no *locus standi* to file the present cancellation application and only with ulterior motive he has filed the present application. Learned counsel submits that so far as Ariyari P.S. Case No. 98 of 2015 is concerned, opposite party no. 2 was never made accused in that case. As a matter of fact, the said case was lodged against unknown and in that case after investigation police submitted charge-sheet against unknown having no clue. As regards



Ariyari P.S. Case Nos. 139 of 2017 and 140 of 2017, it is submitted that those cases have been registered on 01.09.2017 and 02.09.2017 respectively, whereas the anticipatory bail application on his behalf was filed on 28.08.2017, and as such, there is no question of concealment.

Learned counsel for petitioner, in reply, submits that although the informant is a Government official but petitioner being resident of the same Panchayat is also aggrieved and as such he has got the *locus standi* to file the application for cancellation of bail granted to opposite party no. 2. It is further submitted that there are judgments of the Hon'ble Court that aggrieved persons have got all the rights to file application. Further, although the other two F.I.Rs were lodged on 01.09.2017 and 02.09.2017 and the opposite party no. 2 should have brought this fact to the knowledge of the Court.

Learned counsel appearing for the opposite party no. 2 submits that the opposite party no. 2 was granted bail primarily on consideration of the fact that similarly situated co-accused persons have been granted bail by different co-ordinate Benches this Hon'ble Court.

Considering the facts and circumstances of the case, the submissions advanced on behalf of the parties and the fact



that opposite party no. 2 was granted anticipatory bail considering the fact that similarly situated co-accused persons have been granted anticipatory bail by different co-ordinate Benches of this Court, I do not find it to be a fit case for cancellation of bail. It is, accordingly, dismissed.

(Arvind Srivastava, J)

mcv/-

U		T	
---	--	---	--

