

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71174 of 2018

Arising Out of PS. Case No.-165 Year-2017 Thana- JALE District- Darbhanga

Umesh Das S/o Late Ram Sogarath Das @ Batahu Das, Residence of Vill.-
Rewdha, P.S.- Jale, Dist- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kusheshwar Das.
3. Vishwanath Dasl
4. Kapal Das
All S/o Late Saudagar Das, Resident of Vill/Mohalla- Rewdha, P.S.- Jale,
Distt.- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kedar Jha, Advocate
For the Opposite Party/s : Mr.Sri Aditya Narayan Singh 1, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

10 14-08-2019 Heard learned counsel for the petitioner and
learned counsel for the State.

Learned counsel for the informant has also entered
appearance after issuance of notice.

The present application for cancellation of bail has
been occasioned on account of subsequent events following the
order of bail which has been passed on 25.04.2018 in Cr. Misc.
No. 25069 of 2018.

Learned counsel for the petitioner submits that the
Opposite party nos. 2 to 4 are hardcore criminals and they have
already been convicted in a case under Section 302 of the Indian



Penal Code for which a criminal appeal is pending before this Court and they have been granted bail in the same by this Court. He further submits that after the said bail was granted in connection with the aforementioned order of conviction, the opposite parties have again indulged in this act for which the present first information report was filed. He further submits that this Court while entertaining the application for grant of bail had considered that the case of the opposite parties/petitioners were on similar footing to other co-accused persons, who had also been extended the privilege of bail by this court and considering such facts and circumstances, these opposite parties were also extended the privilege of bail.

However, no sooner were they released they again started indulging in acts which were prejudicial to the interest of the informant and his family, and as a result thereof he was forced to file a *Sanah* before the local police station bringing to light the actions and the threats issued by the present opposite parties after the grant of bail by this Court. In the said context, a report was also called from the Sub-Inspector of the local police station, who has submitted a positive report indicating that the opposite parties have since been indulging in such acts which would have put harm the progress of the trial, as the witnesses



were being continuously threatened by the opposite parties. It is under such circumstances that the petitioners being a informant in the said case has moved the present application for cancellation of bail. Noticing such submissions, this Court had issued notices to the opposite parties, who have since appeared.

Learned counsel for the opposite parties/bail applicants, who were granted bail vide order dated 25.04.2018 has resisted the application stating that the entire allegations are false and mischievous and should not be permitted to be used as grounds for cancellation as the petitioner has all regard and honour order passed by this court and shall not indulge in any acts which should be prejudicial to the interest of the progress of the trial. He further submits that most of the allegation made in the application are false and should not be entertained.

A rejoinder to the counter affidavit filed by the opposite parties clearly indicate that the opposite parties, who were extended the privilege of bail have since been threatening the victims and other family members and intimidating them from not going into the court to give evidence against the opposite parties and as a result thereof there is all likelihood that there may be serious prejudice to the trial in case they are permitted to wonder outside the jail.



It is submitted that when such panic had been created, the petitioner who is the informant of the case has filed a *Sanah* for registering a case against the opposite parties on 26.09.2018 upon which an enquiry was conducted and a report was submitted on 07.10.2013 that the eminent threats do exist as per the statement of witnesses and other local villagers from whom he has made secret inquiries. He thus, submitted that in the wake of the facts there is positive evidence of the opposite parties intimidating the petitioner and his family who was informant in the case the bail order, in the interest of justice, may be cancelled by this Court.

Having heard learned counsel for the parties and upon consideration of all facts and circumstances, this Court was persuaded into once again going into the merits of the case and considering the post-mortem report which clearly indicates that there were enough injuries which had been occasioned on account of the cumulative actions of the petitioners and other co-accused persons which had led to the death of the father of the present informant. Furthermore the actions of the opposite parties in indulging in criminal activities after grant of bail sufficiently establish that they have been misusing the privilege



granted to them.

In view of the above mentioned facts and circumstances, this Court finds that there is sufficient reason to recall the order dated 25.04.2018 passed in Cr. Misc. No. 25069 of 2018 in favour of the petitioners by which they have been granted privilege of bail. The order of bail is cancelled and the trial Court is directed to cancel the bail bonds of the petitioners of Cr. Misc. No. 25069 of 2018 and take them into custody in view of the situation and the threat perception. It is further directed that the trial of the present case in connection with Jale P.S. Case No. 165 of 2017 be expedited on day-to-day basis without granting any adjournments to either the prosecution or the defence without there being any reasonable cause so as to conclude positively within a period of six months from the date of receipt/production of a copy of this order.

The application for cancellation of bail stands allowed.

(Anjana Mishra, J)

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