

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68284 of 2018

Arising Out of PS. Case No.-331 Year-2017 Thana- JOGAPATTI District- West Champaran

Md. Akhatar Son of Md. Ahmand Ansari, Resident of Village Semari,
Bhawanipur, P.S. Jogapatti Nawalpur, District- West Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Tabarakh Ansari, Son of Monib Ansari, Resident of Village- Semari,
Bhawanipur, P.S.- Nawalpur, Jogap, District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Gupta, Adv
For the Opposite Party/s : Mr.Md. Ashlam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 17-04-2019 Seen the office notes wherefrom it is evident that

there happens to be personal service upon OP No.2, Tabarakh

Ansari. None appears on behalf of OP No.2.

2. Petitioner is the informant of Jogapatti (Nawalpur)

PS Case No. 331/2017 registered under Sections 147, 148, 149,
341, 323, 324, 307, 302, 447, 448 IPC and OP No.2 is the FIR
named accused. In the aforesaid background, Cr. Misc.
No.1422/2018 has been filed on his behalf with a prayer to
release him on bail in accordance with Section 439 CrPC and
during course thereof, as is evident, he has disclosed under
paragraph-3 that he has got no criminal antecedent.

3. Informant/petitioner annexing Annexure-3 which



happens to be the FIR of relevant PS Case Nos. i.e. Jogapatti PS Case No. 296/204, 332/2014, 261/2017 and further, it has been prayed that as the order of bail dated 11.01.2018 passed in connection with Cr.Misc. No. 1422/2018 has been procured in deceptive manner by concealing the criminal antecedent, on account thereof, the order dated 11.01.2018 be cancelled.

4. Learned APP endorsed the view.

5. In view of the order so obtained under the guise of fraud is a nullity in the eye of law. Furthermore, no one could be allowed to avail the usufruct of the same. Apart from this, in spite of personal service, there happens to be absence of OP No.2 which, as it appears, happens to be an intentional one.

6. Be that as it may, considering the facts as well as conduct of the OP No.2, the order dated 11.01.2018 passed in Cr.Misc. No. 1422/2018, is hereby, cancelled. Consequent thereupon, Cr. Misc. No. 68284/2018 is allowed.

7. That being so, the learned lower court will be at liberty to proceed against the OP No.2/accused of Jogapatti (Nawalpur) PS Case No.331/2017, in accordance with law.

(Aditya Kumar Trivedi, J)

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