

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34353 of 2019

Arising Out of PS. Case No.-81 Year-2017 Thana- BARACHATTI District- Gaya

MUSTAFA ALAM @ MD. MUSTAFA ALAM Son of Late Md. Mokhtar Alam Resident of village- Sindhugadh, Police Station- Mohanpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Pravesh Nath Tiwari, Adv.
For the Opposite Party/s : Mr.Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 25-09-2019 Though it is a disposed of matter, but it has been listed in view of the report dated 19.06.2019 of the In-charge District and Sessions Judge, Gaya, enclosing a report of Sub-Judge-I-cum-ACJM, Sherghati, dated 12.06.2019 stipulating therein that false statement has been made with regard to criminal antecedent of the petitioner in Criminal Miscellaneous No.34353 of 2019 .

The petitioner, being the brother of the husband of informant's daughter, preferred Criminal Miscellaneous No. 34353 of 2019 with a prayer for custody bail in a case registered for the offences punishable under Sections 302/34 of the I.P.C.

The prosecution case as per the informant is that the informant's daughter, Roksana Praveen was killed by her in-



laws family, including the petitioner.

However, considering the thrust of accusation against the husband of the victim and the investigation being concluded, coupled with the statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, the petitioner was granted bail vide order dated 27.05.2019 passed in Criminal Miscellaneous No. 34353 of 2019. Subsequently, a report dated 19.06.2019 was transmitted by the learned I/c District and Sessions Judge, Gaya enclosing a report of Sub-Judge-I-cum-ACJM, Sherghati dated 12.06.2019 to the effect that in pursuance to this Court's order dated 27.05.2019, passed in Criminal Miscellaneous No. 34353 of 2019, the petitioner furnished bail bonds on 03.06.2019 and subsequently after the same being accepted, the petitioner furnished bail bonds in Barachatti P.S. Case No.21 of 2016 also, hence the statement made on behalf of the petitioner in paragraph no.3 of the petition to the effect that he is not having any criminal antecedent is false one. Consequently, this Court, vide order dated 26.06.2019 permitted the learned counsel for the petitioner to file petitioner's explanation in view of the report of the learned Court below. But, on 17.07.2019, it was submitted by learned counsel for the petitioner that despite sincere efforts,



he failed to contact the petitioner, hence, the matter was adjourned for 31.07.2019. On 31.07.2019 when the same submission was made on behalf of learned counsel for the petitioner, then this Court issued notices to the petitioner and the opposite party no.2.

Consequently affidavits have been filed on behalf of the petitioner as well as on behalf of the deponent, Md. Chotu, who swore the affidavit on behalf of the petitioner in Criminal Miscellaneous No. 34353 of 2019.

In the affidavit, filed on behalf of the petitioner, the petitioner has stated that he was in custody and the daughter of the informant of the present case had earlier filed a case being Barachatti P.S. Case No. 21 of 2016 with accusation under Section 498A/34 of the Indian Penal Code, but the deponent, being the cousin (brother) of the petitioner was not aware about the aforesaid case being lodged against the petitioner, hence, inadvertently, a wrong statement was made in paragraph no.3 of the petition to the effect that the petitioner is not having any criminal antecedent and considering the same as one of the grounds, the petitioner was granted anticipatory bail vide order dated 27.05.2019 passed in Criminal Miscellaneous No.34353 of 2019. It has further been submitted that the petitioner is also



on bail in another case lodged against him and inadvertently, a wrong statement was made in paragraph no.3 of the petition.

In view of the fact that both the cases have been filed with same accusation and in another case being, Barachatti P.S. Case No. 21 of 2016, the petitioner was granted bail, moreover, in the present case, the petitioner was granted bail on considering the merits of the accusation, coupled with the fact that there is nothing on record to suggest that the petitioner has misused the privilege of bail, this Court is not inclined to cancel the bail of the petitioner.

However, the petitioner and the deponent are warned to be careful in future while making any statement on oath in any proceeding.

(Dinesh Kumar Singh, J)

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