

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53928 of 2017

Arising Out of PS. Case No.-55 Year-2015 Thana- HARNAUT District- Nalanda

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Anil Yadav S/o Late Ram Kishun Yadav, resident of Village- Narachvar, P.S.-
Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sharvan Yadav, S/o Mathura Yadav, resident of Village- Narachvar, P.S.-
Harnaut, District- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Raj Kishor Prasad
For the Opposite Party/s : Mr.Sri Shyam Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 30-01-2019 The petitioner, who is the informant of Harnaut

P.S. Case No. 55 of 2015 which has given rise to Sessions

Trial No. 655 of 2016, seeks cancellation of bail of O.P. No.

2, who has been assigned the role of shooting at the

deceased on the ground that he being the main assailant of

the case, who had been arrested after two years of the

lodging of the case, ought not to have been granted bail by

the Trial Court on the ground that the prosecution could not

bring any evidence on eight dates after the framing of the

charge.

From the perusal of the order dated 03.07.2017

passed by the learned 6th Additional District & Sessions



Judge, Nalanda, Bihar Sharif, it appears that the Court below, only on taking note of the fact that no effort was made by the prosecution to bring any prosecution witness on several dates and taking into account the assurance of the accused persons that they are ready to extend all support for completion of the trial, granted bail to O.P. No. 2 and others. While passing the order impugned, the Court below also took note of the fact that some of the accused persons were released on bail by the High Court way back in the year 2015.

The learned counsel for the petitioner has harped upon the fact that he may not have brought witnesses to the witness box to prove the prosecution case but since the O.P. No. 2 has been attributed with the main act of firing at the deceased, he could not have been granted bail in such a casual manner.

The aforesaid reasons are absolutely unacceptable.

This Court does not find any flaw in the order passed by the Trial Court. Hence, the prayer for cancellation



of bail of O.P. No. 2 is rejected.

However, the O.P. No. 2 is directed to participate in the Trial and his unauthorized absence from the trial proceedings for two consecutive dates without seeking any exemption for his appearance from the Trial Court would lead to an adverse inference and the informant/petitioner or the Investigating Agency would be within their rights to apply for cancellation of bail granted to O.P. No. 2.

This petition is disposed off accordingly.

(Ashutosh Kumar, J)

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