

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16928 of 2018

Arising Out of PS. Case No.-186 Year-2017 Thana- BODHGAYA District- Gaya

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Ravindra Kumar, Son Chandradeo Singh, Resident of Village- Urail, P.S.
Bodh Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Binda Singh, Son of Shri Babuchand Singh @ Babulal Singh.
3. Rohit Kumar Singh, Son of Sri Binda Singh. Both resident of Bihari Para
Amrasota, P.S. Raniganj, District- Burdwan West Bengal, Permanent
Resident of village- Dhibar, P.S. Fatehpur, District- Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Uday Narayan Singh

For the Opposite Party/s : Mr.Sir Pramod Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 17-09-2019 Heard learned counsels for the petitioner-
informant, opposite party nos. 2 and 3 and the State.

The present application has been filed for
cancellation of bail, granted to opposite party nos. 2 and 3,
Binda Singh and Rohit Kumar Singh respectively, vide order
dated 02.02.2018, passed in Criminal Miscellaneous No.6242
of 2018 in Bodh Gaya P.S. Case No.186 of 2017, pending in



the Court of learned CJM, Gaya, registered for the offences punishable under Sections 406, 420 and 379/34 of the Indian Penal Code.

The factual matrix of the case is that the informant under an agreement, purchased a truck bearing Registration No.NL-02K/1521, for which, agreed consideration amount was paid to opposite party no.2, Binda Singh. Subsequently, additional amount of Rs.2,00,000/- lacs was further demanded. However, considering the fact that the accusation arising out of contractual nature of relationship, opposite party nos.2 and 3 were granted anticipatory bail. However, it was mentioned in paragraph no.3 of the main petition that opposite party nos. 2 and 3 have no criminal antecedent.

It is submitted by learned counsel for the petitioner that while filing the bail application, the opposite party nos. 2 and 3 concealed the fact that they are also accused in Fatehpur P.S. Case No.86 of 2015 registered for the offences punishable under Sections 147, 149,341, 323 and 427/504 of the I.P.C.

Learned counsel for the opposite party nos. 2 and 3 submits that the petitioner is none else than the brother-in-



law of opposite party no.2 and he used to look after the transport business of opposite party no.2. It is further submitted that since the affidavit was sworn by father of opposite party no.2, namely, Babuchand Singh, who is aged about 79 years and due to old age, he could not state the correct fact in paragraph no.3 of the bail petition. However, in the said case only, Binda Singh was named as an accused. It is further submitted that in the said case though one Mintu Kumar was also named as an accused, but since his father's name was mentioned as Binda Singh, hence it was presumed that he is opposite party no.3. Moreover, the said FIR was registered under bailable offences, hence, they were granted bail by the learned Court below. Moreover, there is nothing on record to suggest that after grant of bail, the opposite party nos. 2 and 3 have misused the privilege of bail.

Considering the rival submissions of the parties and a bare perusal of order granting bail it appears that basically the bail was granted after considering the fact that the accusation is arising out of a contractual nature of dispute and statement made in paragraph no.3 of the bail petition that opposite parties nos. 2 and 3 are not having any criminal antecedent, but considering the fact that Fatehpur P.S. Case



No.86 of 2015 was registered for a petty bailable offence and there is nothing on record to suggest that after grant of bail, opposite party nos. 2 and 3 have misused the privilege of bail or they have been made accused in any other case. Hence, it is not a case of cancellation of bail of opposite party nos. 2 and 3.

The parameters of grant of bail and its cancellation are quite different. No doubt, the bail is granted on considering the merits of the accusation; there is no likelihood of accused being absconding or tampering with the evidence while the bail already granted to an accused can be cancelled in case; (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. as has been laid down in the case of *Mehboob Dawood Shaikh Vs. State of Maharashtra* reported in (2004) 2 SCC 362.

In the present case, there is no material on record to suggest that the opposite party nos. 2 and 3 have misused



the privilege of bail. Hence, this Court is not inclined to interfere in the matter.

This application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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