

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3253 of 2018

Arising Out of PS. Case No.-5 Year-2017 Thana- SC/ST District- Saran

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Anita Devi Wife of Mewalal Baitha, Resident of Village- Ekari P.S. Ekma District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bashistha Narayan Singh, Son of Ragho Singh.
3. Prince Kumar Singh @ Tinku Son of Bashistha Nairayan Singh, Both are resident of Village Ekari, P.S. Ekma District- Saran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Mukesh Kumar Singh, Advocate.
For the Respondents	:	Mr. Awadhesh Kumar Singh, Advocate.
For the State	:	Mr. Sadanand Paswan, Spl. PP.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

9 30-09-2019 Heard learned counsel for the appellant, learned counsel for the respondent nos. 2 and 3 as well as learned Spl. PP for the State.

Appellant has filed the aforesaid appeal for cancellation of the bail granted to the respondent nos. 2 and 3 namely Bashistha Narayan Singh & Prince Kumar Singh @ Tinku respectively vide order dated 06.04.2018 passed by the learned lower court in Saran SC/ST P.S. Case No. 05 of 2017 with submission that learned lower court without calling for the case diary perused the same and passed the impugned order accordingly and secondly respondent nos. 2 and 3 surrendered



before the court below on 06.04.2018, but learned lower court granted bail to the aforesaid respondents on 06.04.2018 itself considering the period of custody of the aforesaid respondents while respondents were not in custody even for a single day.

Per Contra, learned counsel for the respondent nos. 2 and 3 submitted that the case diary which was called for in the case in connection with the other accused persons was already available on record, hence there was no question of calling for the case diary and learned lower court after perusing the available case diary has passed the impugned order. It is further submitted that it is a regular bail and the respondent nos. 2 and 3 surrendered before the learned lower court on 06.04.2018 and taking the aforesaid respondents into custody, the court below has passed the impugned order treating them in custody. Learned lower court has not committed any illegality in passing the impugned order and moreover there is no misuse of privilege of bail by the respondents and there is no allegation of any tampering with the evidence, witnesses, etc. at the hand of the aforesaid respondents. Hence aforesaid order passed by the learned lower court is not liable to be cancelled and this appeal filed by the appellant is shorn of merit and is liable to be dismissed.



From perusal of the record, it appears that respondent nos. 2 and 3 surrendered before the court below on 06.04.2018 along with the bail petition and taking the aforesaid respondents into custody, perusing the case diary which was already available on record as it was called for earlier by the court while granting bail to the co-accused and considering the case on merit, learned lower court has passed the impugned order. Though the learned lower court besides considering the merit of the case has also considered the period of custody while passing the impugned order though the respondents were not in custody even for a single day but as it is a regular bail and there is no allegation of misuse of privilege of bail or tampering with the evidence or witnesses at the hand of the aforesaid respondents, hence aforesaid impression of learned lower court about period of custody of respondents, in my considered opinion, does not appear to be any ground for cancellation of the bail of the respondent nos. 2 and 3.

Accordingly aforesaid appeal is dismissed finding no substance in it.

(Prakash Chandra Jaiswal, J)

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