

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68519 of 2018

Arising Out of PS. Case No.-52 Year-2018 Thana- SAMSTIPUR RAIL P.S District-
Samastipur

Meena Devi mother of late Sajan Kumar @ Sanjan Soni deceased, Wife of
Ram Bhajan Sah Resident of Village-Daviyalpur, Ward No.19, Teghra, P.S.-
Teghra, District-Begusarai Petitioner/s

Versus

1. State Of Bihar
2. Mukesh Sahni @ Mukesh Kumar Sahni, Son of Ramashraya Sahni Resident
of Village-Korbadha, P.S.-Samastipur Muffasil, District-Samastipur.
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sujit Kumar Singh, Adv
For the Opposite Party/s : Mr.Sri Anil Kumar Singh 1, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 05-02-2020 Heard learned counsel for the petitioner as well as the
State.

No one appears for opposite party No.2-Mukesh
Sahni @ Mukesh Kumar Sahni.

This application is for cancellation of bail granted to
opposite party No.2-Mukesh Sahni @ Mukesh Kumar Sahni by
order dated 20.09.2018 passed in Cr. Misc. No.57215 of 2018 in
connection with Samastipur Rail P.S.Case No.52 of 2018
registered under Sections 302/34 I.P.C. and 27 of the
Arms Act. The corresponding sessions trial of the aforesaid case
was S. Tr. No.371 of 2018. After investigation, chargesheet was
submitted for offence under Sections 396 and 412 I.P.C. also.

The cancellation has been sought for on the ground



that opposite party No.2 had suppressed some of his criminal antecedent in Cr. Misc. No.57215 of 2018 and on further ground that material fact that opposite party No.2 was identified during test identification parade was also suppressed in the aforesaid Cr.Miscellaneous wherein bail was granted.

Opposite party No.2 had stated in para-16 of the bail petition that he was put on test identification parade on 29.06.2018 after 49 days of his arrest. Opposite party No.2 has further stated that the witnesses did not disclose as to how they identified the petitioner at the time of occurrence on the railway track when the occurrence had taken place in the mid-night. Whatever merit of the aforesaid assertion may be, it cannot be argued that the petitioner/opposite party No.2 herein had suppressed the aforesaid fact about his identification during investigation.

In para-3 of the petition for bail, the petitioner had stated that he is accused in Hawai Adda P.S. Case No.364 of 2008, Ujiyarpur P.S.Case No.47 of 2013 and Kankarbagh P.S.Case No.1119 of 2013 and in all the aforesaid cases, the petitioner was on bail. The petitioner further stated that he was accused in seven more cases and all resulted in acquittal after trial.



On careful consideration, I do not find that the petitioner attempted to suppress his criminal antecedent while seeking for bail from this Court and even if any case was left out to be mentioned, the voluminous record of criminal cases might have led to inadvertence in disclosure of any referred case.

It appears that while issuing show cause notice to opposite party No.2, this Court had stayed the operation of the order of grant of bail on 24.01.2019 on submission of learned counsel for the petitioner that bail was obtained by suppressing the material fact regarding criminal antecedent and identification during test identification parade.

Considering the aforesaid matter, in my view, this is not a fit case for cancellation of bail granted to opposite party No.2. Hence, this application for cancellation of bail stands rejected.

The learned court below is directed to release opposite party No.2 in pursuance of order of 20.09.2018 passed in Cr. Misc. No.57215 of 2018.

(Birendra Kumar, J)

Nitesh/-

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