

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43541 of 2017

Arising Out of PS. Case No.-11 Year-2017 Thana- SC/ST District- Katihar

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Anita Devi Wife of Sanjay Hari Resident of Badhuwa, bari Ward no. 16, P.S.
Katihar Nagar, District-Katihar

... .. Petitioner/s

Versus

1. State Of Bihar
2. Nawed Alam @ Md. Nawed Alam, Son of Mohammad Ali, Resident of
Village-Jalki, P.s. Azamnagar, Distt. Katihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md. Musowir

For the Opposite Party/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

7 18-02-2020 Heard the parties.

This application has been filed for cancellation of bail granted to O.P.no.2 vide order dated 24.7.2017 passed by Addl. Sessions Judge-I cum Special Judge, Katihar in G.R.Case no.1727 of 2017 for the offence under Section 376(D) of the IPC and Section 3(w)(i) of the SC/ST (POA) Act.

Grounds for cancellation of the bail are that the learned Special Judge without having case diary available has discussed the materials of the case diary and allowed bail to the O.P.no.2, which does not appear to be correct and he has also not considered the statement of the victim girl recorded under Section 164 Cr.P.C. in which she has supported the allegation of



rape against her.

Heard learned APP and the learned counsel for the O.P.no.2 who has appeared and filed Counter Affidavit stating that earlier he had moved for anticipatory bail and the anticipatory bail application was permitted to be withdrawn but during the pendency of the anticipatory bail application the case diary was received and thereafter O.P.no.2 has surrendered and at that time, case diary was available before Special Judge, who considering the materials in the case diary passed the impugned order granting bail . It is further submitted that there was contradiction in her statement before police and statement under Section 164 Cr.P.C. and the medical report does not support the prosecution case, considering the same, the prayer for bail of the O.P.no.2 was allowed.

Having heard both sides and considering the submissions as made above, and on perusal of materials available on record, I find no merit in this application.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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