

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1550 of 2019

Arising Out of PS. Case No.-59 Year-2017 Thana- BANGAWON District- Saharsa

Kailash Prasad Singh, S/o Brahmdev Prasad Singh, R/o – Village -
Rahuamani, P.S. - Bangaon, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajnit Yadav @ Don, S/o Bano Yadav @ Bandelal Yadav
3. Sanjeet Yadav, S/o Bano Yadav @ Bandelal Yadav
4. Sanjay Yadav, S/o Bano Yadav @ Bandelal Yadav
5. Vikash Yadav @ Vikash Kumar Yadav, S/o Bano Yadav @ Bandelal Yadav
6. Bano Yadav @ Bendelal Yadav, S/o Late Chhedi Yadav, All R/o – Village -
Rahna, P.S. - Bangaon, District - Saharsa

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar, Advocate
For the Opposite Party/s : Mr. Anand Kishore Choudhary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

6 05-02-2020 Heard learned counsel for the parties.

This application is for cancellation of anticipatory bail granted to opposite party no. 2 to 6 in connection with Bangaon P.S. Case No. 59 of 2017 vide order dated 02.11.2018 passed in Cr. Misc. No. 59381 of 2018.

Cancellation has been sought for on the ground that in para 3 of the application, under Section 438 Cr.P.C., vide Cr. Misc. No. 59381 of 2018, all the ten petitioners of the case made wrong statement that they have got no criminal antecedent. At the time of grant of anticipatory bail, criminal antecedent of one of the petitioners Baijnath Yadav @ Mausam



Vibhag @ Baidyanath Yadav was brought to the notice of the Court and for suppression of criminal antecedent, he was not allowed anticipatory bail, whereas other nine including opposite party no. 2 to 6 were allowed anticipatory bail.

Learned counsel for the petitioner has drawn attention of the Court to the FIR of Bangaon P.S. Case No. 69 of 2010, a copy at Annexure-2, wherein opposite party no. 2 to 6 are named accused. Learned counsel has drawn attention of the Court towards the charge-sheet filed in the aforesaid case against opposite party no. 2 to 6 and the copy of charge-sheet at Annexure-3 would show that all the accused were on bail in that case. Therefore, opposite party no. 2 to 6 had knowledge about the criminal antecedent against them at the time of filing of Cr. Misc. No. 59381 of 2018.

Learned counsel for opposite party no. 2 to 6 submits that this is not a case of deliberate suppression of fact. Rather under wrong information, the aforesaid fact could not be stated in this case.

Whatever reason for suppression of fact may be but suppression of material facts is there, which is an important consideration for the Court at the time of consideration of prayer for anticipatory bail, vide Section 438(1)(ii) Cr.P.C.



It is evident that bail was obtained by playing fraud on the Court. Hence, order granting anticipatory bail aforesaid stands recalled.

Let the opposite party no. 2 to 6, namely, Rajnit Yadav @ Don, Sanjeet Yadav, Sanjay Yadav, Vikash Yadav @ Vikash Kumar Yadav and Bano Yadav @ Bendelal Yadav surrender within a period of two weeks from the date of receipt/production of a copy of this order and pray for regular bail, failing which the court below shall be at liberty to take coercive step against them for their apprehension.

Accordingly, this application is allowed.

Let a copy of this order be communicated to the court of learned Additional Chief Judicial Magistrate-I, Saharsa in connection with Bangaon P.S. Case No. 59 of 2017.

(Birendra Kumar, J)

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