

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1376 of 2020

Arising Out of PS. Case No.-368 Year-2016 Thana- KOTWALI District- Patna

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BABITA SINGH Wife of Sri Pankaj Resident of East Boring Canal Road,
P.S.- Buddha Colony, Distt - Patna - 800001.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Shiv Ram Krishna Gupta @ Krishna Jee Son of Late Sitaram Gupta
Resident of Krishna Bhawan, Hotel Rajasthan Gali, Frazer Road, P.S.-
Kotwali, Distt - Patna - 800001

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Ashish Giri, Adv. Ms. Shrishti Singh, Adv.
For the Opposite Party/s :		Mr.Mukeshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 17-02-2020 This is an application for cancellation of bail granted to opposite party no. 2 vide order dated 05.10.2018 passed by Sub Judge -XVI-cum-ACJM, Patna. It further appears that petitioner has also moved against the order dated 05.10.2018 before the learned Sessions Judge, Patna but the learned Sessions Judge without going into the merit of the case as well as submissions raised by the learned counsel for the petitioner, dismissed the application of the petitioner with liberty to her to move before learned Court below by filing a petition for cancellation of bail under Section 437(5) Cr.P.C.

Submission of learned counsel for the petitioner is that there is power for cancellation of bail under Section 439(2)



and that can be entertained by the learned Sessions Judge as well as by the High Court but learned Sessions Judge without considering the said fact has dismissed the application of the petitioner after eight months.

Heard learned A.P.P. also.

Having heard both sides, it appears that the petitioner in support of his contention has cited several decisions of Hon'ble Supreme Court as well as of this Court but in spite of that the application of the petitioner has been dismissed in slapdash manner with direction to the petitioner to move for cancellation of bail before the court below by filing petition under Section 437(5) Cr.P.C. In such view of the matter, the matter is remitted back to the learned Sessions Judge, Patna, who after issuing notice to opposite party and after hearing both the parties shall pass an afresh order on merit, within a period of three months from the date of receipt of a copy of this order.

This application is accordingly disposed of.

(Vinod Kumar Sinha, J)

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