

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.19202 of 2007
NAWAL KISHORE SINGH, SON OF LATE YOGENDRA SINGH,
RESIDENT OF VILLAGE RAJPATTI, P.O. & P.S. DIGHWARA,
DISTRICT-SARAN CHAPRA.....PETITIONER.

Versus

- 1. PURSHOTTAM MAHARAJ, SON OF LATE KEDRA MAHARAJ ,**
RESIDENT OF VILLAGE HEMATPUR, WARD NO.9, P.O. AND
P.S. DIGHWARA, DISTRICT-SARAN CHAPRA.
 - 2. THE STATE OF BIHAR.**
-OPPOSITE PARTIES.**

For the Petitioner: Mr. Mrigank Mauli, Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.
For O.P. No.1 : None.

O R D E R

This application by the petitioner who in the application does not disclose his capacity and credentials is for cancellation of anticipatory bail granted to Opposite Party No.1, Purshottam Maharaj in connection with Dighwara P.S. Case No.103 of 2006 vide order dated 21.3.2007 passed in Criminal Misc. No.11719 of 2007.

The reason for prayer of cancellation of anticipatory bail is attributed to the fact that the said petitioner, Purshottam Maharaj, had procured the order of anticipatory bail by concealing material facts and that he was threatening the petitioner for which a sanaha, a copy whereof is appended as Annexure-6 to this application, had been filed by him before the Officer Incharge, Kotwali P.S., Patna.

Admittedly, there are no fixed rules governing the grant or rejection of a prayer for bail. While granting or refusing the bail, the

court is required to exercise its discretion in a judicious manner and not as a matter of course.

In the case of Panchanand Mishra Vs. Digambar Mishra, reported in (2005)3 SCC 143, the Apex Court had observed that the object underlining the cancellation of bail is to protect the fair trial or secure justice being done to the society by preventing the accused who is set at liberty by a bail order from tampering with the evidence in the heinous crime. Prior thereto, in the case of Kalyan Chandra Sarkar Vs. Rajesh Ranjan, reported in (2004)7 SCC 528, the Apex Court observed that the general rule that courts will ordinarily not interfere in matters relating to bail subject to exceptions where there are special circumstances and when the basic requirements for grant of bail are completely ignored. For the purpose of entertaining an application for bail a detailed examination of the evidence is to be avoided to ensure that there is no pre-judging and no prejudice and only a satisfaction about the existence or otherwise of a prima facie case is necessary.

The petitioner in the instant application for cancellation of the bail has not disclosed his identity or credentials as also his connection/involvement with Dighwara P.S. Case No.103 of 2006. The reasons assigned are that the petitioner had obtained bail by concealing material facts and that he had been threatened by the said accused for which he had lodged a sanaha (Annexure-6).

A perusal of Annexure-6 reveals that the petitioner herein on 28.3.2007 had received a call on his mobile set at 9.28 P.M. from one Pankaj Mishra(Malviya), son of Prem Chandra Mishra,

threatening him to keep his hands off the Chairman of Nagar Panchayat, Dighwara, Purshottam Maharaj, and he should not pursue Dighwara P.S. Case Nos.103 of 2006 and 28 of 2007. The petitioner herein, is not the informant of Dighwara P.S. Case No.103 of 2006 and his connection therewith remains a mystery. Moreover, for an alleged threat given to him in respect of cases relating to Dighwara, the sanha was submitted at Patna. That apart, it would appear from perusal of Annexure-6, that it was signed by one Sambhu Sharan Singh and not the petitioner. Therefore, the claim of the petitioner herein being threatened does not stand to reason.

A perusal of the rejection order of the Sessions Judge dated 20.2.2007 passed in A.B.P. No.686 of 2006 clearly shows that the allegation against Purshottam Maharaj was that he was negligent and had not supervised the work of the scheme. The allegation in the F.I.R. is also that he was negligent and was in conspiracy.

My order dated 21.3.2007 passed in Criminal Misc.No.11719 of 2007 which is sought to be cancelled clearly shows that from perusal of the written report, it appears that only allegation against the petitioner is that he has not inspected or supervised the scheme which had been taken up by the Nagar panchayat and considering all these facts and considering that there was no allegation against the petitioner of being involved in any money transaction I had granted anticipatory bail.

There is no allegation or material on record to show that Purshottam Maharaj after being released on anticipatory bail had

indulged in tampering with evidence or had been threatening witnesses. The sanaha by the petitioner herein, regarding threat extended to him is not by the petitioner but some other person.

There is also no complaint against Purshottam Maharaj by the informant of Dighwara P.S. Case No.103 of 2006.

Having given my anxious consideration to the submissions advanced by the learned counsel for the petitioner, I find no cogent material or reason to cancel the anticipatory bail granted to Purshottam Maharaj vide order dated 21.3.2007 passed in Criminal Misc. No.11719 of 2007 moreso when there is no material in the instant application to show that there has been any substantial concealment of facts and failure of justice.

Accordingly, there is no merit in this application which is dismissed.

(Abhijit Sinha,J)

Patna High Court, Patna.
Dated: The 28th of May, 2009.
Pradeep Srivastava/A.F.R.

