

State of Bihar Vs. Joy Sumit Nandi

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Court : Patna

Decided On : Feb-29-1996

Judge : Gurusharan Sharma, J.

Appeal No. : Criminal Misc. No. 48 of 1996 (R)

Appellant : State of Bihar

Respondent : Joy Sumit Nandi

Prior history : Gurusharan Sharma, J. 1. This is an application for cancellation of anticipatory bail granted to the opposite party by this Court on 28.9.1995 vide Cr. Misc. No. 4367 of 1995(R) in connection with Hazaribagh (Sadar) P.S. Case No. 174 of 1995 dated 31.5.1995 (G.R. No. 837 of 1995) registered against the opposite party under Section 366 of the Indian Penal Code. The opposite party filed Anticipatory Bail Petition No. 231 of 1995 before the Sessions Judge, Hazaribagh which was dismissed on merit

Judgement :

Gurusharan Sharma, J.

1. This is an application for cancellation of anticipatory bail granted to the opposite party by this Court on 28.9.1995 vide Cr. Misc. No. 4367 of 1995(R) in connection with Hazaribagh (Sadar) P.S. Case No. 174 of 1995 dated 31.5.1995 (G.R. No. 837 of 1995) registered against the opposite party under Section 366 of the Indian

Penal Code. The opposite party filed Anticipatory Bail Petition No. 231 of 1995 before the Sessions Judge, Hazaribagh which was dismissed on merit on 17.6.1995. Thereafter on 8.9.1995 the opposite party filed Cr. Misc. No. 3675 of 1995 (R) in this Court for anticipatory bail, which was dismissed as withdrawn on 14.9.1995 on the plea that there was no apprehension for being arrested. The opposite party on 27.9.1995 on the plea that there was no apprehension for being arrested. The opposite party on 27.9.1995 filed second application for anticipatory bail in this Court, being Cr. Misc. No. 4367 of 1995 (R). AlongWith the said application a photo copy of a letter dated 2.7.1995 sent to the Thana Incharge, Sadar Police Station, Hazaribagh, in the pen of the victim girl Prativa who was alleged to have been kidnapped by the opposite party was annexed. By the said letter Prativa informed the police that she has already married and in living with her husband and asked not to proceed to search her. For the reason that the victim girl already married herself and was living with her husband, the opposite party was granted anticipatory bail, subject to the conditions under Section 438(2) of the Criminal Procedure Code.

2. On 1.11.1995, the father of the victim girl filed an application under Article 226 of the Constitution of India for issuing an Writ in the nature of habeas corpus calling upon the respondents, particularly the opposite party, who was Respondent No. 4 therein to produce his daughter-Prativa who was unlawfully kept in confinement, custody and Control of Respondent No. 4. On 23.11.1995, the statement of Respondent No. 4 was recorded before a Division Bench of this Court and this Court observed as follows:

Mr. Nandy is present in Court. His statement has been recorded. In his statement we find that there is much deviation from his stand taken earlier while moving anticipatory bail petition. The receipt of an affidavit and the copy of a petition Pratibha Kumari addressed to the O/c by the school of which Mr. Nandy is the principal, really creates suspense and suspicion about the conduct of Mr. Nandy itself.

Mr. Nandy is hereby asked to show cause within seven days next as to why his anticipatory bail petition granted on 28.9.1959 is Cr. Misc. No. 4367 of 1995(R)

should not be cancelled. As we feel that without proper interrogation of him in custody the truth may not come out.

3. Although the opposite party was interrogated on 8.11.1995, his further interrogation was very much necessary to find out the truth about the said letter dated 2.7.1995. Paragraphs 392, 432, 434, 444, 446, 451 and 467 of the case diary reveals that the opposite party was avoiding further examination and in spite of repeated efforts could be available and on account of his non-cooperative attitude the whereabouts of the missing girl could not be traced out, The victim girl was produced in this Court in the habeas corpus matter and her statement was recorded. She alleged that on 13.5.1995 the opposite party kidnapped and raped her and pressurised and assaulted her to write a letter to the Officer-in-charge and kept her in his captivity till 4.1.1996. On the date when this Court was to take decision finally in the habeas corpus matter the opposite party was found absent and this Court observed : 'This conduct tells upon the attitude of Respondent No. 4', On the request of the Investigating Officer when the Chief Judicial Magistrate asked the opposite party to appear in the Court for the purposes of investigation and interrogation, for the first time on 9.2.1996 it was disclosed that he was ailing and hospitalised at Bilaspur (Madhya Pradesh) from 22.12.1995. Nothing about his ailment or hospitalisation was stated in the petition filed on 11.1.1996 in the habeas corpus matter.

4. I am satisfied that the opposite party obtained anticipatory bail on the basis of a manufactured document and subsequently violated the condition as laid down in Section 438(2) of the Code, In my opinion, in the facts and circumstances of this case if the opposite party is allowed to continue on anticipatory bail, faith of the public in administration of justice is likely to be considerably shaken. I have, therefore, no option but to cancel the order of this Court granting anticipatory bail to the opposite party (Joy Sumit Nandi), He is directed to surrender before the Chief Judicial Magistrate, Hazaribagh, in connection with Haribagh (Sadat) P.S. Case No. 174 of 1995.