

SUPREME COURT OF INDIA

Rajendra Prasad Arya

Vs.

State of Bihar

CrI.A.No.3063 of 1999

(G. B. Pattanaik and U. C. Banerjee, JJ.)

28.02.2000

ORDER:-

1. The accused is the petitioner in the present case and had filed an application for being released on bail while the matter is still pending before the trial Judge. On 21-7-1998, it appears, the Court rejected his prayer for bail. But, unfortunately in the order-sheet of the proceeding it was indicated that the accused has been released on bail and pursuant to that order, in fact, the accused was released on bail.

2. Later on the Court came to know of a wrong order having been incorporated and recalled the earlier order passed on 21-7-1998 and incorporated the correct order, namely, refusing the prayer for bail and directing the trial Judge to bring the petitioner into custody. On 17-5-1999 when the Court recalled the earlier order dated 21-7-1998, admittedly the accused was not heard. The only question for consideration is whether the Court ought to have heard the accused on that date before making necessary corrections in the order-sheet dated 21-7-1998. There is no dispute with the proposition that the Court has always the power to rectify any mistake committed by it. But since the accused has already been released pursuant to an earlier order incorporated in the order-sheet, the accused ought to have been heard before making any alteration/correction in the order in question.

3. Since the accused was not heard before making the correction by order dated 17-5-1999, we quash the said order dated 17-5-1999. It would be open for the High Court to make necessary rectification/correction by giving an opportunity of hearing to the accused. This Special Leave Petition stands disposed of accordingly.

Order accordingly.