

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18656 of 2015

Arising Out of PS.Case No. -25 Year- 2014 Thana -SAKRA District- MUZAFFARPUR

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1. Kailash Sharma, S/O Late Rameshwar Sharma,
2.Asha Devi, W/O Sri Kailash Sharma, both resident of Village-
Mahammadpur Badal, P.S.- Sakra, District- Muzaffarpur.
..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

16-06-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioners for the offences punishable under Sections-467, 468, 471 and 420 of the Indian Penal Code and the so called defence of the petitioners that the sale deed in question scribed and registered on the same day talks of full and final payment of Rs. 3,70,000/- by Asha Devi, petitioner no. 2, wife of the petitioner no. 1, to both the informant, Chandeshwar Chaudhary (since dead) and his daughter, Rita Devi, this Court is not inclined to grant the privilege of anticipatory bail to either of the petitioners. In this regard this Court has found that the petitioners initially came out with a story of compromise with the informant and his daughter Rita



Devi before the Court below and in fact had also produced a compromise petition containing their signature which however was found to be forged in pursuance to an inquiry made by the Court below in terms of the earlier order passed by the District & Sessions Judge. The petitioners in fact have also got no proof of making payment of such a huge amount of Rs. 3,70,000/- in cash to the deceased informant and/or his daughter, Rita Devi.

In such a situation, the petitioners would not be at least entitled for privilege of anticipatory bail unless they deposit the withheld amount of Rs. 2,45,000/- by bank draft in the name of Rita Devi as alleged in the First Information Report which would be handed over to Rita Devi keeping it subject to final outcome of trial of the petitioners.

That being so, if both the petitioners namely, **Kailash Sharma and Asha Devi** surrender before the Court below and produce a Bank-draft of Rs. 2,45,000/- in the name of the daughter of the informant, Rita Devi,



they would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of **Chief Judicial Magistrate, Muzaffarpur** in connection with **Sakra P.S. Case No. 25 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close relative of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of their bail on the ground of misuse.

(iii) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail

will be liable to be cancelled for reasons of misuse.

(iv) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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