

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19826 of 2015

Arising Out of PS.Case No. -28 Year- 2015 Thana -GOH District- AURANGABAD

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1. Kanhaiya Sharma Son of Late Ram Sanehi Singh.
 2. Deepak Sharma @ Deepak Kumar, Son of Kanhaiya Sharma. Both resident of New Area, Goh, Police Station- Goh, District-Aurangabadm (Bihar).
 3. Sanjay Sharma @ Sanjay Kumar Son of Braj Kishore Sharma, Resident of Village- Kaithi, Police Station- Goh, District- Aurangabad., (Bihar).
 4. Pappu Sharma Son of Sidh Nath Sharma, Resident of Village-Barahi, Police Station- Goh, District- Aurangabad (Bihar).
 5. Heera Moti Sharma Son of Ram Pukar Sharma.
 6. Arunjay Sharma @ Anunjay Sharma, Son of Late Sidheshwar Sharma. Both resident of New Area, Goh, Police Station- Goh, District-Aurangabadm (Bihar).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Purushotam Sharma, Adv
For the Opposite Party No. 1: Mr. Shailendra Kumar 1 (App)
For the Informant : Mr. K.N. Choubey, Sr. Adv & Mr. Y.K.
Dwivedy, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 18-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioners for the offences punishable under Sections-147, 148, 149, 448, 461, 379 and 506 of the Indian Penal Code and the admitted position that rightly or wrongly the petitioners have semblance of right over the property in dispute on account of sale deed



executed by the husband of the informant in favour of one of the petitioner, this Court having also found the entire look of the present criminal case is actually a dispute of civil nature, would not be inclined to accept the submission of Mr. K. N. Choubey, learned senior counsel for the informant that there was also a segregable part of the occurrence taking place inside the house of the informant because when the servant of informant was examined by the Investigating Officer immediately after the alleged occurrence, he in his statement to the police did not say a word about such incident taking place inside the house of the informant.

In that view of the matter, this Court taking into account the admitted position of their being history of litigation between the parties and that the petitioners have got no criminal antecedent, as specifically asserted in paragraph no. 3, would find them entitled for privilege of anticipatory bail.

That being so, if the petitioners namely,



Kanhaiya Sharma, Deepak Sharma, Sanjay Sharma, Pappu Sharma, Heera Moti Sharma and Arunjay Sharma, surrender within a period of four weeks from today, 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 **Judicial Magistrate, 1st Class, Daudnagar, Aurangabad** in connection with **Goh P.S. Case No. 28 of 2015 (G.R. No. 175 of 2015)**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That the court below shall make verification of criminal antecedent of the petitioners and if it is found that they are accused in any other criminal case, they shall be taken into custody refusing them bail on this ground alone.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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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