

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19854 of 2015

Arising Out of PS.Case No. -265 Year- 2014 Thana -BHANGWANPUR HAT District- SIWAN

Gajendra Singh, Son of- Late Ramashray Singh. Resident of village -
Malmalia, P.S.- Bhagwanpur Hat , District Siwan

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.26245 of 2015

Arising Out of PS.Case No. -265 Year- 2014 Thana -BHANGWANPUR HAT District- SIWAN

1. Avinash Kumar son of Gajendra Singh
2. Sanoj Kumar Singh @ Sanoj Kumar son of Mathura Singh
3. Manish Kumar Singh @ Manish Kumar son of Binda Singh All are residents of village - Malmalia, P.S. - Bhagwanpur Hat, District - Siwan.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.19854 of 2015)

For the Petitioner/s : Mr. Ajay Kumar Pandey, Adv

For the Opposite Party/s : Mr. Ambika Bhagat (Spl.App)

(In Cr.Misc. No.26245 of 2015)

For the Petitioner/s : Mr. Ajay Kumar Pandey, Adv

For the Opposite Party/s : Mr. A.M.P.Mehta(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

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

While this Court taking into account of
prosecution of the petitioner for offence under Section
341, 323, 504, 427, 379, 385/34 I.P.C. and Section



3(i)(x) of S.C./S.T. Act is based on the landlord and tenant dispute between Gajendra Singh, the petitioner in Cr. Misc. No. 19854/2015 and Ambika Sah, the informant and that the petitioners have got no criminal antecedent it could become inclined to grant them the privilege of anticipatory bail but then it is found that such claim of the petitioners is based on order dated 30.08.2014, D.C.L.R., Maharajganj in BLDR Case No. 43 of 2014-15, on the basis of which the informant was sought to be evicted which in itself is an absolutely illegal and perverse order, inasmuch as, the moment the D.C.L.R. had found existence of a bonafide landlord-tenant dispute between petitioner and informant in relation to house on the plot of petitioner occupied by the informant the D.C.L.R. had no business or jurisdiction to pass an order of eviction of informant because such a tenant alike the informant is protected by **Bihar Building (Lease, Rent and Eviction) Control Act, 1982** could be evicted only by civil court.



Faced with this situation when this court was not inclined to grant privilege of anticipatory bail to the petitioners, Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner has submitted that the petitioners shall not eviction of the informant on the basis of the aforesaid order dated 30.08.2014 of D.C.L.R. and would not disturb the possession of informant of the tenanted premises till such an order of eviction of the informant at the instance of the petitioners is passed by competent civil court.

That being so, if the petitioners namely, **Gajendra Singh (Criminal Miscellaneous No. 19854 of 2015) and Avinash Kumar, Sanoj Kumar Singh and Manish Kumar Singh (Criminal Miscellaneous No. 26245 of 2015)**, would surrender within a period of four weeks from today and give a written undertaking not to disturb the possession of the informant and/or evict him till the order of competent civil court directing eviction of the informant, 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, Siwan** in connection with **Bhagwanpur Hat P.S. Case No. 265 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) The informant Ambika Sah shall continue with possession of his tenanted premises namely his hotel and shop over the land of Gajendra Singh till a decree of eviction is passed by competent civil court and if his such possession is sought to be disturbed by any of the petitioner the court below on making enquiry shall cancel the bail of the petitioners.

(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 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)

Ranjan/-

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