

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25324 of 2015

Arising Out of PS.Case No. -151 Year- 2014 Thana -KURSAKANTA District- ARRARIA

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1. Onkar Nath Thakur Son of Shri Sachidanand Thakur resident of Village - Radhika Tola, Ward No. 17, P.S. + District - Araria.

2. Arun Kumar Yadav Son of Sri Harihar Prasad Yadav resident of Village - Jagir, P.S. - Kursakanta, District - Araria, at present Mukhia, Gram Panchayat Laxmipur, Anchal - Kursakanta, District - Araria.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Chittranjan Sinha, Sr.Adv.
Mr. Birendra Kumar, Adv.

For the Opposite Party/s : Mr. Md.Fahimuddin(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 26-08-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under sections 420, 409, 120B/34 of the Indian Penal Code, this Court will not be inclined to grant privilege of anticipatory bail to petitioner no.1, who was the executing agent, and petitioner no.2, who was a Mukhiya, by whose joint conspiracy the State exchequer to the tune of Rs.27,09,800/- has been misappropriated.

The submission of Mr. Chittranjan Sinha, learned Senior counsel for the petitioners, that the work has been subsequently completed by petitioner no.1 will also make no difference so far the allegation against the petitioners in the F.I.R. is concerned.

In that view of the matter, when this Court was not



inclined to grant privilege of anticipatory bail to the petitioners, Mr. Sinha then comes out with a solution that the petitioners may be granted privilege of anticipatory bail on their conditional deposit of the amount of Rs.27,09,800/- by making it clear that if the petitioners are acquitted in the criminal case, the amount deposited by them shall be refunded to them.

Taking all these aspects into consideration this Court would direct the petitioners, namely, Onkar Nath Thakur and Arun Kumar Yadav, to surrender before the court below within a period of four weeks from today and if they produce a Bank draft of Rs.27,09,800/- in the name of the Collector of Araria District, they shall 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 Sri A.B.D.Dubey, Judicial Magistrate, 1st Class, Araria in Kursakanta P.S.Case No. 151/2014, 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 delay 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.

(v) The Bank draft shall be immediately handed over to the office of the Collector of Araria District but then the same shall remain subject to the outcome of pending criminal case against the petitioners.

surendra/-

(Mihir Kumar Jha, J)

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