

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42896 of 2015

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1. Naresh Rai, Son of Inardeo Rai,
2. Inardeo Rai, Son of Late Devaki Rai,
3. Bishundeo Rai, Son of Late Devaki Rai,
4. Shanti Devi, Wife of Inardeo Rai, All resident of village - Sumauti, P.S.
- Tariyani, District - Sheohar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Advocate.

For the Opposite Party/s : Mr. Sadanand Paswan(Spl.Pp)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 15-09-2015

Heard learned counsel for the parties.

This application has been filed for modification in the condition no. (ii) in the order dated 25.06.2015 in Cr. Misc. No. 17297 of 2015 which reads as follows:-

"(ii) That both the bailors will be a 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."

Learned counsel for the petitioner in this regard has submitted that even when the assertion of the petitioners of having no criminal antecedent was duly verified by the concerned police station, the court below in its order dated 6.7.2015 has not granted bail in terms of the direction of this Court dated 25.06.2015 in Cr.

Misc. No. 17297 of 2015, but only provisional bail by making an observation that the petitioners should seek modification in the order of this Court dated 25.6.2015.

This Court having perused the court below dated 6.7.2015 is quite baffled with the approach of the court below and, in fact in view of his such order, there would be a big question mark on the capability and functioning of the Additional Chief Judicial Magistrate, Sheohar. The petitioners had made a categorical assertion that they have no criminal antecedent. The report was also called for by the court below and there was a report in favour of the petitioners from Tariyani Police Station in favour of the petitioners. If the court below wanted to make further verification, it could have written to the Superintendent of Police of Sheohar district but instead of doing it had asked the petitioner to seek modification in the order of this Court which under the circumstances was wholly uncalled for.

In that view of the matter, the petitioners' provisional bail shall be confirmed by the court below on obtaining a written undertaking on affidavit of the petitioners that they do not have any criminal antecedent either in Tariyani Police Station or anywhere else. This exercise must be completed within a period of four weeks from the date of receipt of this order.

With the aforementioned observation and direction,
this application is disposed of.

Let a copy of this order be sent to the court below for
its compliance in letter and spirit.

(Mihir Kumar Jha, J)

Sujit/-

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