

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49866 of 2015

Arising Out of PS.Case No. -305 Year- 2015 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN(MOTIHARI)

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1. Sonalal Prasad Son of Rajeshwar Prasad
2. Kiran Devi Wife of Sona Lal Prasad @ Sone Lal Prasad
Both Resident of Mohalla- Mathiya Subhash Nagar, Dhaka Road, P.S.-
Chatouni, District - East Champaran

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Paswan

For the Opposite Party/s : Mr. Dr.Indiwar Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 09-11-2015 Learned counsel for the petitioners prays for and is

allowed to make necessary correction in the description of the

name of the husband of petitioner no.2.

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under
sections 406, 420 of the Indian Penal Code and section 138 of the
Negotiable Instrument Act and the admitted position that the
cheque given in favour of the informant by petitioner no.1 to the
tune of Rs.1,90,000/- had bounced while this Court was not
inclined to grant privilege of anticipatory bail to petitioner no.1,
learned counsel for the petitioners comes out to offer that
petitioner no.1 is prepared to deposit the aforementioned amount
of Rs.1,90,000/- within a period of six months in five equal

instalments of Rs.38,000/- per month.

That being so, if the petitioners, namely, Sonalal Prasad and Kiran Devi, appear before the court below and petitioner no.1 deposits a Bank draft in the name of the informant, Laxman Prasad, for a sum of Rs.38,000/-, he shall be granted provisional bail for a period of one month on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, East Champaran, Motihari in Motihari Town (Sadar) P.S. Case No. 305/2015, on the following conditions:

(i) Upon completion of a period of one month the petitioner no.1 shall again surrender and deposit the second instalment of Rs.38,000/- within a period of one month. This will again entitle the petitioner no.1 to get the benefit of provisional bail for a period of one month. Likewise if the petitioner no.1 keeps on surrendering and making payment of Rs.38,000/- and clears the amount of Rs.1,90,000/-, his provisional bail after being extended by month to month shall be confirmed only after petitioner no.1 deposits the entire amount of Rs.1,90,000/- by five separate Bank draft in the name of the informant which shall be also handed over to the informant by the court

below after obtaining an undertaking by him that in the event petitioner no.1 is acquitted of the charge in the trial, such amount shall be refunded by him to petitioner no.1.

(ii) That both the bailors will be a close relative of petitioner no.1 who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner no.1.

(iii) That the bailor shall also state on affidavit that he will inform the Court concerned if petitioner no.1 is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iv) That the petitioner no.1 will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(v) That the petitioner no.1 will be well represented on each and every date of trial and if he fails to do so on two

consecutive dates, his bail will be liable to be cancelled on this ground alone.

So far petitioner no.2 is concerned, there being no specific allegation against her this Court would be inclined to grant privilege of anticipatory bail to her and as such, if petitioner no.2, Kiran Devi, surrenders before the court below within a period of four weeks from today, she shall be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, East Champaran, Motihari in Motihari Town (Sadar) P.S. Case No. 305/2015, subject to the following conditions:

(i) That both the bailors will be a close relative of the petitioner no.2 who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner no.2.

(ii) That the bailor shall also state on affidavit that he will inform the Court concerned if the petitioner no.2 is implicated in any other case of similar nature after her release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation

of bail on the ground of misuse.

(iii) That the petitioner no.2 will give an undertaking that she will receive the police papers on the given date and be present on the date fixed for charge and if she fails to do so on two given dates and delays the trial in any manner, her bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioner no.2 will be well represented on each and every date of trial and if she fails to do so on two consecutive dates, her bail will be liable to be cancelled on this ground alone.

surendra/-

(Mihir Kumar Jha, J)

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