

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51502 of 2014

Arising Out of PS.Case No. -8 Year- 2014 Thana -MEERGANJ District- GOPALGANJ

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1. Surendra Singh Son of Jagarnath Bhagat
 2. Dharmendra Singh @ Dharmndra Singh @ Dharmendra Kumar Son of Surendra Singh
Both Residents of village - Lachhichak, P.S. Bhorey, District - Gopalganj
 3. Shashi Bhushan Bharti Son of Prabhunath Singh Resident of village - Barka Kairauli, P.S. Hathua, District - Gopalganj
 4. Ram Ekbal Singh Son of Kishun Singh Resident of Village - Basdewa, P.S. Bhorey, District - Gopalganj
 5. Pramod Kumar Singh @ Pramod Kumar, Son of Ramashankar Singh Resident of village - Khadahi, P.S. Bhorey, District - Gopalganj
 6. Anil Prasad Son of Nagendra Prasad Resident of Village - Bharatpura, P.S. Hathua, District - Gopalganj, Katib, Registry office Mirganj, District – Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Bhakta
For the Opposite Party/s : Mr. M.Dayal(App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 02-07-2015 Heard Mr. N.K. Agrawal, Senior Counsel for the

petitioners and the Counsel for the informant.

The petitioners apprehend their arrest in connection with Mirganj P.S. Case No 8 of 2014 registered under Sections 406, 420, 467 and 468/120(B) of the Indian Penal Code.

The allegation is that the informant was inured by petitioner no. 1 and 2 to give a sum of Rs. 2 lakhs for getting employment. The amount was paid but he was not given any offer of appointment. The informant pursued the matter whereafter the



accused nos. 1 and 2 executed three registered bonds in favour of the informant of which the other accused persons contributed in preparation of the bonds either as drafter, witness or identifier. Those bonds were subsequently found to utter surprise of the informant as the three sale deeds. When the accused nos. 1 and 2 were pressurized, a cheque in the sum of Rs. 2 lakhs was issued by petitioner no. 2 which on presentation was dishonoured. With these allegations, the petitioners have been made accused.

Contention of the petitioners is that giving certain amount for obtaining employment itself is a criminal act. The allegation of conversion of bonds into sale deeds is subjudice before the Civil Court since before filing of the present prosecution, the informant had filed a title suit for cancellation of the three sale deeds in which the petitioner nos. 1 and 2 are the principal defendants. If the cheques have been dishonoured, the remedy lies in taking steps under the N.I. Act.

Per contra, Counsel for the informant has submitted that the series of events spelt out in the F.I.R. clearly indicate the criminal mind of the petitioners. Filing of a suit will not exonerate them of the criminal liability

Mr. Agrawal, after taking instruction, has submitted that for obtaining the privilege of anticipatory bail, the petitioner

nos. 1 and 2 will be depositing the cheque amount in Court without prejudice to their right and defence.

Considering the submission of the parties, I am persuaded to direct that in the event of arrest or surrender in the Court below within four weeks, the petitioners abovenamed are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in Mirganj P.S. Case No. 8 of 2014 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with the further following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) Along with the bail bonds, the petitioner nos. 1 and 2 shall produce two cheques, each in the sum of Rs. One lac favouring the informant. The informant shall be entitled to withdraw one cheque amounting Rs. one lakh on furnishing appropriate undertaking before the Court. The another cheque in the sum of Rs. one lakh favouring the informant shall remain with the Court and abide by the final outcome of the proceeding. Payment of amount under two cheques shall be without prejudice to the right and defence of the accused persons. It will be open to

the parties to get appropriate order of the Court in seisin of the matter for fix deposit of the another cheque of Rs. one lac.

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(Kishore Kumar Mandal, J)