

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11671 of 2016

Arising Out of PS.Case No. -148 Year- 2015 Thana -BAIKUNTHPUR District- GOPALGANJ

- =====
1. Nabin Patel @ Nabin Kumar Patel, S/o Awadh Patel, Resident of Village- Khaira Ajam, P.S. Baikunthpur, Distict Gopalganj.
 2. Dilip Singh, S/o Ramashray Singh, Resident of Village & P.S. Baikunthpur. District Gopalganj.
 3. Ganesh Sah @ Ganesh Singh, Son of late Munnilal Sah
 4. Tetari Devi, W/o late Anandi Sah.
 5. Kisnawati Devi, W/o Lalan Sah
 6. Neha Kumari, D/o late Suresh Sah
 7. Mahadev Mahto, S/o late Gudan Mahto
 8. Parduman Prasad, S/o late Tribhuwan Prasad
- Serial No. 3 to 7 are resident of Village-Usari P.S. Baikunthpur, District Gopalganj, and serial No. 8 Resident of Village Faijullahpur, P.S. Baikunthpur, District Gopalganj.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ashutosh Jha
For the Opposite Party/s : Mr. Anil Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 16-03-2016

Heard.

The petitioners, 8 in number, apprehend their arrest in a criminal prosecution registered under Section 420, 467, 468, 469, 471 and 120B of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners submits that the present criminal prosecution has been launched on account of execution of sale deed by the petitioner nos.3 and 4 in favour of the petitioner nos.1 and 2. He further submits that, so far petitioner nos.5 to 7 are concerned, they are said to be the witnesses on the aforesaid sale deed and the petitioner no.8 is the deed writer. He also submits that the dispute

is civil in nature.

Learned Addl.P.P. appearing on behalf of the State of Bihar has opposed the prayer and has submitted that, so far petitioner nos.1 to 4 are concerned, they are directly involved in the commission of crime of cheating and forgery.

After having heard the parties and taking into consideration the factual aspects of the matter and also taking into consideration the fact that, so far petitioner nos.5 to 8 are concerned, they are not direct beneficiaries of the alleged transaction, as the petitioner nos.5 to 7 are said to be the witnesses on the alleged sale deed and the petitioner no.8 is said to be the deed writer, this Court is inclined to accede to the prayer made on their behalf for grant of anticipatory bail.

In the event of their arrest or surrender in the court below within a period of four weeks from today, let the above named petitioner nos. 5 to 8 be enlarged on bail on furnishing bail bond of Rs. 25,000/- each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Baikunthpur P.S. Case No. 148 of 2015, subject to the condition as laid down under Section 438(2) of the Cr.P.C. and subject to further conditions that:

(A) One of the bailors must be government servant or close family members of the petitioners, who will file an affidavit in the court below showing his/her relationship with the petitioners,

(B) if the petitioners are found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the

petitioners, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned;

(C) the petitioners shall make regular pairvi in the court below in the present case either by appearing themselves in person or through representation by their lawyer on each and every date, and if on two consecutive dates petitioners fail to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioners.

However, so far petitioner nos.1 to 4 are concerned, apparently, they are beneficiaries of the commission of crime of cheating and forgery.

In that view of the matter, this Court is not inclined to accede to the prayer made on behalf of the petitioner nos.1 to 4 for grant of anticipatory bail. Accordingly, their prayer for grant of anticipatory bail in connection with Baikunthpur P.S. Case No. 148 of 2015 pending in the court of learned Chief Judicial Magistrate, Gopalganj is rejected.

However, if they surrender in the court below within a period of four weeks from today and apply for regular bail, then the same shall be considered and decided on its own merits without being prejudiced by the present order.

Arvind/-

(Birendra Prasad Verma, J)

U		T	
---	--	---	--