

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56343 of 2015

Arising Out of PS.Case No. -207 Year- 2015 Thana -KOTWALI District- PATNA

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Sushil Kumar Pansari, Son of Late Binod Kumar Pansari,

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 10-02-2016 Heard learned counsels for the petitioner, informant and
the State.

The petitioner has renewed his prayer for anticipatory
bail in a case registered for the offences punishable under Sections
448/379/34 of the Indian Penal Code.

The earlier application of the petitioner filed with a
prayer for anticipatory bail vide Criminal Miscellaneous
No.40686/2015 was permitted to be withdrawn vide order dated
06.10.2015 by a co-ordinate Bench of this Court with a liberty to
file fresh anticipatory bail application as and when required.
Hence, the present anticipatory bail application.

The matter has been placed before this Court in view of
the administrative order dated 01.02.2016 of Hon'ble the Acting
Chief Justice in view of the fact that the Bench, who passed the

earlier order, is not available due to medical exigency.

Prosecution case is that the petitioner being developer trespassed in the property of the informant on 30th March, 2015 in spite of the restrain order passed in Title Partition Suit No.1957/2014 and thereafter the petitioner and other accused committed theft.

It is submitted by learned counsel for the petitioner that the petitioner is a developer, he entered into a Development Agreement with regard to land, in question, situated at East Boring Canal Road with Dr. Sheela Sharma, own sister of the informant on 5th February, 2015 and subsequently paid huge amount of money to the sister of the informant. In fact, the petitioner is not a party to the Title Partition Suit No.1957/2014, hence, he was not aware about the restrain order on the alleged date of occurrence. On conclusion of investigation, the petitioner was not sent up for trial, but differing with the final form cognizance has been taken. The nephew of the informant namely Amar Jyoti Sharma, during pendency of the present case, maliciously lodged Kotwali P.S. Case No.23/2016 on 10.01.2016 levelling accusation under sections 147,149,452,379,387 and 120B of the Indian Penal Code. Co-accused Dr. Sheela Sharma, the sister of the informant and others have been granted anticipatory bail by this Court vide

Criminal Miscellaneous No.56024/2015.

It is submitted by learned counsel for the informant that the petitioner entered into Development Agreement on 8th October, 2014 and thereafter the restrain order was passed by learned trial court in Title Partition Suit No.1957/2014 on 19th March, 2015 whereas the present case was lodged on 26th April, 2015, hence, the petitioner entered into the premises in a full knowledge about passing of restrain order. Though, initially the petitioner was not made a party in Title Partition Suit No.1957/2014 but subsequently, an application was filed for impleading him as a party defendant but he deliberately avoided to appear before the learned court below.

Considering the rival submissions of the parties, keeping in view of the fact that the accusation has been levelled in the background of serious dispute with regard to share in the property, in question, between the informant and his sister, let the above named petitioner be released on provisional anticipatory bail for four months, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Patna in connection with Kotwali P.S. Case No.207/2015, subject

to the conditions as laid down under Section 438(2) Cr.P.C.

In the meantime, the petitioner will appear in Title Partition Suit No.1957/2014 and will give in writing that he will not violate any order passed in the aforesaid title suit and will abide by all the orders which will be passed therein then the provisional bail of the petitioner will be confirmed by the learned court below.

Learned court below will be at liberty to cancel the bail bonds of the petitioner, if the learned court below is convinced that the petitioner is in any way substantially violating the order/s of the court or defaults for three consecutive occasions.

Ashwini/-

(Dinesh Kumar Singh, J)

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