

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1071 of 2017

Arising Out of PS.Case No. -334 Year- 2014 Thana -BODHGAYA District- GAYA

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Kitti Nawani @ Kishore Nowani son of Late Sri Mohanlal Nawani Resident of Bodh Gaya, P.O. + P.S. - Bodh Gaya, Gaya, District - Gaya, Bihar, the General Secretary of Buddhist Thai Bharat Society (having Registration No. 168/1995-96 at Bihar) Bodh Gaya, 824231, Gaya, Bihar, India at present outside India as his permanent place of abode is at 12/5, Soi - 33, Sukhumvit Road, Bangkok (Thailand) while his local place of residence is at Buddhist - Thai Bharat Society.

.... Appellant/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary, Advocate.

For the Respondent/s : Smt Usha Kumari No-1, S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 11-05-2017 Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State.

The allegation on its face is suggestive of the fact that actually the appellant who happens to be General Secretary of Buddhist Thai Bharat Society Bodh Gaya, is doing the legal activity under the garb of aforesaid institution whereunder, he got the land transferred from the descendents of landless person who were settled a land by the Government under the ceiling law which happens to be inheritable but not transferable .

It has been submitted on behalf of the appellant that co-accused Saryug Prasad had already been granted anticipatory



bail vide Cr.Misc.No.16230 of 2015 vide order dated 23.07.2015 and the case of the appellant stood on similar footing, hence, he also be allowed to avail the privilege of anticipatory bail. It has also been submitted that none of the members of the scheduled Castes in whose favour the settlement stood and whose descendents are vendors, have had complained that they were cheated or deceived at the end of the appellant and that being so, no offence under Section (1-IV), (I-V) SC/S T Act is made out. It has also been submitted that actually those persons were responsible for entering into negotiation with the appellant who represents an institution, sold the land for a consideration amount which they received in token thereof, and so, it is the appellant who has been cheated, deceived and by such activity, now the appellant feels that in the aforesaid background, document in question, being nullity in the eye of law has fallen victim of fraud and deception. That being so, appellant should be released on anticipatory bail.

The learned Special P.P. opposed the prayer.

In terms of Section 55 of the T.P.Act there happens to be an obligation liability on the buyer as well as seller. That being so, appellant being purchaser would not escape from his liability and so, it will be presumed that he entered into



negotiation with those who were not at all competent to transfer the land as, was not transferable and further by such activity the State has been put under wrongful loss consequent thereupon instant case has rightly been registered by the State Officials.

In the aforesaid background I am not at all find myself in concurrence with the order dated 23.7.2015 passed in Cr.Misc. No.16230 of 2015 (Annexure-2) by which co-accused has been granted anticipatory bail.

Accordingly, instant appeal is rejected.

(Aditya Kumar Trivedi, J)

AnilKrSinha/-

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