

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35473 of 2017

Arising Out of PS.Case No. -23 Year- 2017 Thana -DUMRAUN District- BUXAR

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1. Ravindra Sharma, Son of Kuber Sharma, R/o Village Majhwari, P.S.- Simri, District- Buxar.
 2. Namo Narayan Dubey Son of Shiv Prasad Dubey, R/o Village- Satphedwa, P.S.- Simri, District- Buxar.
 3. Kamaldeo Pathak Son of Brij Kishore Pathak, R/o Village- Niyajipur, P.S.- Simari , District- Buxar.
 4. Rakesh Lal Son of Gopal Lal, R/o Village- Majhwari, P.S.- Simari, District- Buxar.

.... Petitioners

Versus

1. The State of Bihar.
2. Krishna Kumar Keshri S/o Jawahar Pd. Keshri, Resident of Village – Simri (Dudhipatti), P.O. – Simri, District – Buxar.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shree Kant Pandey, Advocate
For the Opposite Party/s : Mr. Sri Atul Chandra

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-10-2018 Let the informant be added as opposite party no. 2 in the present case.

It appears that the opposite party no. 2 has already appeared in this case by filing a *Vakalatnama*, however, no one appears on behalf of opposite party no. 2 at this stage.

Learned counsel for the petitioners submits that while granting regular bail to these petitioners under Section 439 Cr.P.C., the learned Sessions Judge has imposed a condition whereunder, it is recorded that the petitioners will file an



undertaking to make payment of the maturity amount of all the listed customers of the Company within one year period and if the petitioners fail to do so within the stipulated period, the learned Court below shall be at liberty to take action including even cancellation of their bail bonds.

Learned counsel for the petitioners submits that these petitioners were the employees of the Company in question and the deposits have been made with the Company and not with these petitioners, however, they have given an undertaking that they would take efforts to get the payment of the customers made by the Company. These undertakings submitted have been given under compelling circumstances in the light of the order of the learned Sessions Judge.

In the opinion of this Court, the learned Sessions Judge was not justified in putting such onerous condition for the purpose of grant of bail to these petitioners even as the trial is still pending and the guilt of the petitioners are yet to be determined. Finding *prima-facie* that these petitioners were the employees and agent of the company and they were not the persons with whom the money was deposited, the condition being onerous in nature, the part of the order dated 08.12.2017 passed in B.P. No. 74 of 2017 by which a condition has been imposed that



these petitioners if failed to make payment of the maturity amount of all the customers within one year period, action may be taken against them, even for cancellation of their bail bonds, is not justified and is, accordingly, quashed.

The application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/Ved/-

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