

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8918 of 2017

Arising Out of PS.Case No. -25 Year- 2007 Thana -SHEKHPURA District- SEKHPURA

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Tayabulat Tauhid @ Sayed Tayabul Tauhid, Son of Late Abu Mozaffar,
resident of Village- Katni Kol, P.S.+ District- Sheikhhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Hari Chaudhary, Son of Late Banshi Chaudhary,
3. Ashok Tiwari, Son of Late Ramanuj Tiwari,
4. Savita Devi, Wife of Manoj Kumar Chaudhary,
5. Amrish Kumar, Son of Bhuneshwar Yadav,
6. Binay Kumar, Son of Bhuneshwar Yadav, All resident of Village-
Girhinda, P.S.+District- Sheikhhpura.
7. Upendra Kumar Thakur @ Upendra Thakur, Son of Baniyati Thakur,
resident of Village- Aijhi, P.S.+District- Sheikhpur.
8. Neelam Devi, Wife of Sube Lal Yadav, resident of Village- Dinanagar
Tola, Shahpur, P.S.- Chandradeep, District- Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar

For the Opposite Party/s : Mr. Sri Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 17-01-2018

This petition is for cancellation of bail of the
opposite party Nos. 2 to 8 which was granted to them by order
dated 20.01.2015 by the Court of learned District & Sessions
Judge, Lakhisarai in A.B.P. No. 18 of 2015, arising out of
Sheikhhpura P.S. Case No. 25 of 2007, instituted for the offences
under Sections 420, 467, 468, 471/34 of the Indian Penal Code.

Learned counsel for the petitioner/informant has
submitted that in the aforesaid case, the opposite parties had



prayed for anticipatory bail earlier before the learned Sessions Judge, Munger vide A.B.P. No. 162 of 2007. In the aforesaid application, the learned Sessions Judge, Munger, vide his order dated 04.06.2007, after recording the facts of the case, held that it appeared to be a civil dispute and therefore directed the opposite party Nos. 2 to 8 to surrender before the Court below and pray for regular bail within twenty days and directed the Court below to keep in mind while disposing of their bail petition that one of the accused Bibi Wahida Khatoon is a lady and deserves special privilege. The Court, while directing the opposite parties to surrender before the Court below and seek regular bail also observed that the Court below ought not to take any adverse view of the fact that their anticipatory bail application was not entertained by the learned Sessions Judge. It appears that thereafter, the opposite parties did not surrender before the Court below. The investigation of the case ended in final report false in favour of opposite parties. However, differing with the police report, the learned Magistrate took cognizance against the opposite parties on 22.11.2014 and directed for issuance of summons against them. It was, thereafter that the opposite parties preferred an application for anticipatory bail before the Court below vide A.B.P. No. 18 of 2015. By that time, the Sessions division of



Munger was bifurcated and the case of the informant fell in the Sessions division, Lakhisarai.

Learned counsel for the opposite parties has submitted that they being poor and illiterate people did not know that the case remains the same even if final report false is submitted but later cognizance is taken. The opposite parties were perhaps of the view that because, in the first instance the case ended in submission of final report false, any further prosecution would be a fresh case. This mistaken notion was further compounded by the fact that a new Sessions division, in the meantime, came into existence.

The allegations against the opposite parties are that one Bibi Wahida Khatoon, sold the land of the petitioner/informant in favour of the other accused persons/opposite parties and executed a sale deed which was alleged to be forged and fabricated. A Title Suit between the parties is pending and an order seeking restraint as against the opposite parties was also dismissed by the Civil Court. Considering the aforesaid aspects, the opposite parties were granted anticipatory bail.

This Court is of the view that the facts were not withheld before the Court below while seeking anticipatory bail by



the opposite parties.

For the aforesaid reason, this Court does not wish to interfere with the order granting anticipatory bail to the opposite parties.

The present petition is accordingly dismissed.

(Ashutosh Kumar, J)

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