

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13664 of 2017

Arising Out of PS.Case No. -46 Year- 2014 Thana -KORANSARAI District- BUXAR

Pratima Devi wife of Late Prakash Tiwari, resident of village- Koran Saraiya, P.O. + P.S.- Koransaraiya, District- Buxar, presently residing at village- Khochariyaon, P.O.- Kaithi, P.S.- Bagen Gola, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Gyan Prakash Tiwari, son of Late Rameshwar Nath Tiwari,
3. Jai Prakash Tiwari, son of Gyan Prakash Tiwari
4. Sunita Devi, wife of Jai Prakash Tiwari

All are resident of village- Koran Saraiyan, P.O.- Koran Saraiya, P.S.- Koran Saraiyan, District- Buxar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Deo Singh, Advocate
For the State : Mr. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 15-02-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 15th February, 2016 passed by the learned Additional Session Judge-VII, Buxar in Cr. Revision No.170 of 2015 by which he has set aside the order dated 11.08.2015 passed by the learned Judicial Magistrate, 1st Class, Buxar cancelling the bail bonds of the accused persons, namely, Gyan Prakash Tiwari, Jaiprakash Tiwari and Sunita Devi.



3. learned counsel for the petitioner submitted that the revisional order passed by the learned Sessions Judge, Buxar is bad in law in view of the fact that the accused persons had failed to give due share to the informant in the property in terms of affidavit filed before the learned Sessions Judge at the time of consideration of pre-arrest bail.

4. It would appear from the record that while granting anticipatory bail to the accused persons, the learned Sessions Judge, Buxar in his order dated 25.02.2015 passed in A.B.P. No.443 of 2014 observed :-

“Considering the above facts, the petitioner in the event of arrest or surrender within a fortnight from today are directed to be released on bail on furnishing bail bond of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of learned court below subject to the conditions laid down u/s 438(2) Cr.P.C. in Koransarai P.S. Case No.46/14 with further direction to the learned court below that he will monitor that the agreement (affidavit) for giving share to the informant be maintained, failing which he shall be at liberty to take action including the cancellation of bail even”.

5. The revisional court while setting aside the order passed



by the learned Magistrate has recorded that non-fulfillment of the terms of the bonds executed by the petitioners at the time of consideration of anticipatory bail petition could not have been basis of cancellation of bail.

6. Having heard learned counsel for the petitioner and perused the record, I am of the opinion that the learned Sessions Judge has rightly set aside the order cancelling bail bond of the petitioner.

7. It is well settled that while granting bail to the accused, the court cannot impose onerous condition. The direction to give share to the informant in the property was beyond the purview of the provisions prescribed in the Code of Criminal Procedure for grant of bail. Thus, the same could not have been made a ground for cancellation of bail.

8. In that view of the matter, I see no reason to interfere with the order passed by the revisional court.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.02.2018
Transmission Date	17.02.2018

