

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16264 of 2018

Arising Out of PS.Case No. -128 Year- 2016 Thana -

UDAKISHANGANJ District- MADHEPURA

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1. Parmanand Singh, Son of Saryug Prasad Singh
2. Mukesh Kumar Singh, Son of Parmanand Singh
3. Shiva Devi, Wife of Parmanand Singh
4. Anu Devi @ Anju Singh @ Anju Devi, Wife of Mukesh Kumar Singh
5. Rishav Raj, Son of Ranjesh Singh @ Ranjesh Kumar Singh

All residents of Village - Shahjadpur, P.S. - Uda Kishunganj,
District - Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pramod Kumar Singh, Son of Late Tribeni Pd. Singh,
Resident of Village - Shahjadpur, P.S. Uda-Kishunganj,
District - Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :Mr. Ramakant Sharma, Sr. Adv.

Mr. Narendra Kr. Singh, Adv.

For the No. 2 :Mr. S.R.P. Sinha, Sr. Adv.

Mr. Vijay Bharti, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 08-05-2018

The anticipatory bail of the petitioners was



cancelled by the learned Court below *vide* his order dated 28.02.2018, passed in Cr. Misc. No. 14 of 2016, on the ground that the undertaking which was given by the petitioners at the time of grant of bail was not complied with.

The petitioners as well as the opposite party No. 2 are related to each other and there is a pending family/partition dispute between them. The allegation against the petitioner No. 1 is of having sold some portion of the land belonging to opposite party No. 2 to his daughter (petitioner No. 4) and his grandson, *viz.* petitioner No. 5. Some part of the land is also alleged to have been sold by him to one Nand Kishore Yadav.

Taking into account the fact that there is a dispute of partition between the parties, anticipatory bail was granted to the petitioners by the Court below, but with the condition that any land which would fall in the share of opposite party No. 2 shall be given to him after partition. One of the conditions for grant of bail was that the petitioners would furnish an undertaking that they would recompense the opposite party No. 2 after partition and would also take steps for settling the partition dispute within a period of two months.

At the instance of opposite party No. 2, the



matter was considered by the learned Court below and on finding that the undertaking given by the petitioner No. 1 was not complied with, the anticipatory bail granted to the petitioners was cancelled.

Mr. Ramakant Sharma, learned Senior Advocate, appearing on behalf of the petitioners has submitted that the undertaking given by the petitioners has not been flouted. In fact, the petitioners still stand on their promise of recompensing the opposite party No. 2 after the partition of the respective shares in the family property is effected. It has further been submitted that the undertaking given by the petitioners that the partition dispute shall be settled within a period of two months was something which could not have been insisted upon. The petitioners would not be in a position to have the partition suit decided by the competent Court of law within a period of two months or within any time-line.

However, for the present, learned Senior Advocate for petitioners submits that the petitioners are ready to compensate the opposite party No. 2 after the respective shares in the family property are demarcated in the partition suit and the petitioners would take interest in getting the partition suit decided as early as possible. It has also been promised by the petitioners that they would



not insist upon opposite party No. 2 to return the plot of land over which he has constructed his residential house. However, the aforesaid promise is subject to the condition that in case, in the partition suit, it is found that the opposite party No. 2 is in possession of a larger share than what is due to him, he shall also return the same to the petitioners.

Taking into account the fact that there is a dispute with respect to partition of the shares of the parties, this Court is of the view that no useful purpose would be served in cancelling the anticipatory bail which was granted to the petitioners way-back by the Court below.

With the aforesaid undertaking, this Court is further of the view that the opposite party No. 2 should not have been any objection in continuance of the privilege of the anticipatory bail to the petitioners. In case, any dispute remains to be settled after the partition suit is decided, the parties would have the option to approach the concerned Court for the needful.

Thus, the order dated 28.02.2018, passed in Cr. Misc. No. 14 of 2016, cancelling the anticipatory bail of the petitioners is set-aside.

The petitioners above named are allowed to



remain on the same bonds which were furnished by them earlier.

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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