

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.519 of 2018

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1. Rangnath Tiwari, Son of Late Shivadhar Tiwari.
 2. Sunil Tiwari, Son of Shri Rangnath Tiwari.
 3. Vikas Tiwari, Son of Shri Rangnath Tiwari.
 4. Sonu Tiwari, Son of Shri Rangnath Tiwari.
- All R/o vill.-Chandradaya, P.s.-Belaon, District-Kaimur.
5. Radheshyam Tiwari, Son of Shri Prabha Tiwari, R/o vill.-Rampur, P.S.-Sonhan, District-Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Diwakar Tiwari, Son of Awadhesh Tiwary, R/o vill.-Chandradya, P.O.-Nauhatta, P.S.-Belaon, District-Kaimur (Bhabhua).

.... Opposite Party/s

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Appearance :

- For the Petitioner/s : Mr. Pankaj Kr. Sinha, Adv.
For the O.P. No. 2 : Mr. Dwivedy Surendra, Adv.
For the State : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 26-07-2018 The petitioners were granted bail by the Court of learned In-charge Additional Chief Judicial Magistrate-V, Kaimur at Bhabhua by order dated 05.10.2017, passed in connection with Bhagwanpur P.S. Case No. 55 of 2017,



dated 18.04.2017, instituted for the offences under Sections 448, 341, 323, 325, 307, 504, 379 and 34 of the Indian Penal Code.

The aforesaid order of bail was cancelled by order dated 18.04.2018, passed in Cr. Misc. Petition No. 51 of 2017, by the learned Sessions Judge, Kaimur at Bhabhua.

The aforesaid order of cancellation of bail of the petitioners is under challenge in the present proceeding.

From the perusal of the order impugned, it appears that the bail granted to the petitioners was cancelled on the ground that they had earlier preferred an application for anticipatory bail before the learned Sessions Judge, which though was not granted, but the petitioners were directed to surrender before the court below and seek bail within 15 days. The aforesaid direction was not followed by the petitioners and they chose to prefer an application before this Court for grant of anticipatory bail. Later, the aforesaid application preferred before the High Court was withdrawn. Thereafter, the petitioners surrendered before the Court of learned In-charge Additional Chief Judicial Magistrate-V, who granted them bail. The learned Sessions Judge has cancelled the bail of the petitioners on the ground they



surrendered before the court below after the time given to them had elapsed.

That apart, what weighed with the court below in cancelling the bail of the petitioner was that the offence was under Section 307 of the Indian Penal Code and the Additional Chief Judicial Magistrate could not have granted bail in cases, where the maximum punishment can be for life.

Perused the order of the learned In-charge Additional Chief Judicial Magistrate-V, Kaimur at Bhabhua by which bail was granted to the petitioners.

The aforesaid order reflects that bail was granted on the ground that there is a land dispute between the parties and several persons, who were made accused in this case, were alleged to have caused injuries to six persons. The injury suffered by the informant on his palm was only stated to be grievous, while all other injuries on the persons of the other victims were found to be simple in nature.

Considering the aforesaid facts, bail was granted to the petitioners, taking into account that earlier the anticipatory bail petition of the aforesaid petitioners was rejected by the Sessions Court, but with a direction to them to surrender before the court below and seek bail



and the court below was directed not to get prejudiced by the fact that their anticipatory bail petition was not entertained by the Sessions Court.

Though, the learned In-Charge Additional Chief Judicial Magistrate-V may have shown some haste in passing the order of bail, but the principles concerning the grant of bail and the cancellation thereof, are well-settled. Once bail has been granted, the order cannot lightly be interfered with, unless it is found that the bail was obtained on suppression of certain material facts or that after the grant of bail, the petitioners had been misusing the privilege of bail.

In the aforesaid case, the learned In-Charge Additional Chief Judicial Magistrate-V has recorded all the necessary facts including the rejection of the anticipatory bail by the learned Sessions Judge. Bail appears to have been granted merely on the ground that one injury only was found to be grievous, but that was on the palm of the informant/opposite party No. 2.

While opposing the aforesaid petition, learned Advocate appearing for the informant/opposite party No. 2 has submitted that in this case the charge-sheet has already been submitted.

Considering the factual circumstances and the



reasons assigned by the learned In-Charge Additional Chief Judicial Magistrate-V for grant of bail to the petitioners, the order passed by the learned Sessions Judge (impugned order), cancelling the bail of the petitioners, does not appear to be correct.

In that view of the matter, the order impugned dated 18.04.2018, is set-aside.

The petitioners, above named, shall remain on bail granted to them by the learned In-Charge Additional Chief Judicial Magistrate, Kaimur at Bhabhua.

This revision petition is, accordingly, allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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