

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4634 of 2019

Arising Out of PS. Case No.-3745 Year-2017 Thana- SARAN COMPLAINT CASE District-
Saran

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Niranjan Kumar Rai, son of Late Kamaldeo Rai, authorized signatory of Eden Infrabuild Pvt. Ltd. 7 Jawaharlal Nehru Road, Metropolitan Building Kolkata-700013, P.S- New Market, West Bengal

... .. Petitioner

Versus

1. The State Of Bihar
2. Sheoratani Devi, wife of Suresh Prasad Rai, Resident of Mauza- Sabalpur Pachhiari tola. p.s. Sonapur, Dist- Chapra, Saran At present resident of Village- Nayagaon , P.S. - Sonapur, police station- Nayagaon, dist- Chapra
3. Suresh Prasad Rai, son of Late Ganga Rai, Resident of Mauza- Sabalpur Pachhiari tola. p.s. Sonapur, Dist- Chapra, Saran At present resident of Village- Nayagaon , P.S. - Sonapur, police station- Nayagaon, dist- Chapra

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
CAV ORDER

3 28-03-2019 This application has been filed for cancellation of anticipatory bail granted to opposite party Nos. 2 and 3 vide order dated 19.9.2018 by learned Additional Sessions Judge-X, Saran in A.B.P. No. 2467 of 2018, corresponding to Trial No. 2220 of 2018, arising out of Complaint Case No. 3745 of 2017 in which cognizance was taken under Sections 406 and 420 of the Indian Penal Code.

The ground for cancellation is that in this case learned Additional Sessions Judge had called for a report from the Circle Officer with regard to a piece of land bearing Khata No.



710 in Khesra No. 686 of Mouza Nayagaon and though the report was received that Khesra No. 686 was not in the name of opposite party No.2 but without considering the above report learned Additional Sessions Judge had granted bail to opposite party Nos. 2 and 3. Further ground taken by learned counsel for the petitioner is that earlier to that he has obtained the case status of A.B.P. No. 2467 of 2018 from eCourt Services (Annexure-8) and that disclosed case status as contested bail rejected and that also creates a doubt about the authenticity of the impugned order dated 19.9.2018 passed in A.B.P. No. 2467 of 2018 by which anticipatory bail has been granted to opposite party Nos. 2 and 3. Further case is that opposite party No.2 in spite of knowing the fact that Khesra No. 686 does not belong to him as they executed sale deed in favour of the petitioner with respect to that land, including other land and as such there is a clear case of cheating but without considering the same the prayer for anticipatory bail of opposite party Nos. 2 and 3 was allowed.

In this case notice was issued to opposite party Nos. 2 and 3 and report was called for from the Additional Sessions Judge-X and opposite party Nos. 2 and 3 have filed counter affidavit.



Case of the complainant (petitioner in this case) is that he was in search of land in village and he came into the contact of Pawan Kumar Purusarthi (accused No.3) and thereafter they came into contact with the opposite parties and opposite party No.2 shown her land and thereafter sale of the land was materialised and all three accused persons received a sum of Rs.11,01,000/- from the petitioner and agreed to sell the land bearing Khata No. 710, Plot No. 686, Area 16 Katha and a deed of agreement dated 28.5.2013 was arrived at between the parties and on the basis of the said agreement when the petitioner rushed to get possession of the land and further in that continuance approached in the Circle Office, then he came to know that the said land was running in the name of Reshma Kunwar.

Case of opposite party No.2 is that opposite party No.2 filed a title suit bearing T.S. No. 144 of 1989, which was decreed ex parte in favour of opposite party No.2 and Khesra No. 686 was subject matter of the said title suit also. Thereafter Pleader Commissioner was appointed and final decree was prepared. It is also the case of the opposite parties that daughter of Vidya Rai questioned the judgment and decree passed on 19.7.1991 and final decree dated 24.4.1994 in Partition Suit No.



144/31 of 1989/1989 and the said suit was registered as Title Suit No. 151 of 2006 but the same was also dismissed by learned Sub-ordinate Judge, Sonapur at Chapra on 4.9.2018 and further there is delay in lodging the case. Considering the aforesaid fact the prayer for anticipatory bail of opposite party Nos. 2 and 3 was allowed and as such there is no illegality in the impugned order.

Having heard the parties and on perusal of the record it appears that the learned Additional Sessions Judge after discussion of the case of the parties has taken into consideration that in Partition Suit No. 144 of 1989 disputed land was allotted to Sheoratani Devi (opposite party No.2) she is a bonafide title holder of the same land and land possession certificate is also available on the record, which is in the name of Sheoratani Devi, wife of Suresh Prasad Rai, the present opposite party No.2 and the rent receipt in the name of Sheoratani Devi has also been filed which is available on the record and considering the above fact, learned Sessions Judge has granted privilege of anticipatory bail to opposite party Nos. 2 and 3 and also considering the above fact that a title suit stands decided, final decree has been prepared in the name of opposite party No.2 with respect to Khesra No. 686 mentioned in the deed of



agreement, the learned Additional Sessions Judge has granted the benefit of anticipatory bail to opposite party Nos. 2 and 3. There is no plea of the petitioner that opposite party Nos. 2 and 3 have suppressed any material fact or misused the privilege of anticipatory bail granted to them.

The report of Additional Sessions Judge-IX is also available on record with regard to status report of eCourts Services, which is at Flag 'B', that clearly shows that after hearing the parties the prayer for anticipatory bail has been allowed by the learned court which is substantiated by perusal of the materials on record and the relevant pages of the bail register categorically show that the bail petition was allowed. Report of learned Additional Sessions Judge also discloses that he has called for an explanation from the Steno who used to enter the result in the CIS System and he has admitted that due to his fault, wrong entry has been made in the CIS System and the report of the Steno has also been brought as part of the report submitted by learned Additional Sessions Judge-IX.

Considering the aforesaid facts and circumstances, due to wrong entry in the eCourts Services in the case status of the A.B.P. the impugned order cannot be doubted as the photo copy of the relevant pages of the bail register has also been sent



by learned Additional Sessions Judge which shows that the anticipatory bail has been allowed. So far merit of the present application is concerned, considering the discussions made above, I find no illegality in the impugned order allowing anticipatory bail to opposite party Nos. 2 and 3.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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