

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38931 of 2019

In
CRIMINAL MISCELLANEOUS No.52388 of 2018

Arising Out of PS. Case No.-547 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Mosmat Gayarti Devi @ Gayatri Devi, W/o Late Bhagwan Ojha, Resident of Village-Shahpur, P.S-Shahpur, District-Patna
 2. Rajendra Kumar Ojha, Son of Bhagwan Ojha, Resident of Village-Shahpur, P.S-Shahpur, District-Patna
 3. Sujeet Kumar Ojha, Son of Bhagwan Ojha, Resident of Village-Shahpur, P.S-Shahpur, District-Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kundan Kumar Son of Alakh Niranjana Singh Resident of Village-Shahpur, P.S-Shahpur, District-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh

For the Opposite Party/s : Mrs.Pushpa Sinha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-07-2019 The present application has been filed for modification of order dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018.

The factual matrix of the case is that the petitioners being accused in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code, preferred Cr. Misc. No. 52388 of 2018 with



a prayer for anticipatory bail.

The accusation against the petitioners is that they entered into an agreement for sale with regard to a piece of land and Rs.6,00,000/- as advance was paid to the petitioners. Out of Rs.6,00,000/- they returned Rs.90,000/- through bank transaction, on making offer to return the rest Rs.5,10,000/- in six monthly installments within a period of six months and on acceptance of the offer by the complainant, the petitioners were granted provisionally anticipatory bail for six months. The amount of Rs.5,10,000/- was to be returned by submitting bank draft of Rs.1,50,000/- before executing bail bond and rest amount was to be returned in five equal monthly installments.

It is submitted by learned counsel for the petitioners that the petitioners submitted a bank draft of Rs.1,50,000/- at the time of execution of bail bond but draft of remaining due amount could not be submitted since petitioner no. 2 is suffering from serious kidney ailment, hence, prayer has been made to extend the period of provisional anticipatory bail of the petitioners and the period of return of the amount.

Learned counsel for the complainant submits that the period of six months for returning the due amount lapsed on 01.07.2019 and till date, they have only paid Rs.1,50,000/-.



However, learned counsel for the complainant is not denying the contention of the learned counsel for the petitioners regarding serious illness of petitioner no. 2, but he further submits that there are three petitioners and hence, illness of one cannot be a valid excuse of not returning the undertaken amount.

Considering the rival submissions of the parties, this Court in the interest of justice extends the period of provisional anticipatory bail of the petitioners till 24th of September, 2019 in connection with Complaint Case No. 547© of 2017, pending in the Court of learned Judicial Magistrate, Ist Class, Danapur, Patna.

It is expected from the petitioners to submit a bank draft of Rs.3,60,000/- in three equal installments by 20th of September, 2019, out of which draft of the first installment will be submitted by 15th of August, 2019 before the learned Court below.

On deposit of the entire remaining amount through bank draft before the learned Court below, the learned Court below will confirm the provisional anticipatory bail of the petitioners. It is expected from the learned Court below to release the bank drafts in favour of the complainant.

It is made clear that no further modification



application will be entertained.

In the circumstances, the order dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018 is modified to the extent as indicated above.

Accordingly, this modification application is disposed of.

(Dinesh Kumar Singh, J)

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