

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45672 of 2019

Arising Out of PS. Case No.-292 Year-2018 Thana- BAHERA District- Darbhanga

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FIROZ ALAM KHAN S/o Noor Mohammad Resident of Village- Madhopur,
P.S.-Bahera, Diss-Darbhangha.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kedar Jha, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 26-09-2019 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel appearing on behalf of
the Informant.

Earlier, this petitioner was granted bail vide order dated 16.01.2019 later on his bail was cancelled by this Court noticing the fact that he has not furnished the correct facts about the criminal cases pending against him. Now, the petitioner has filed fresh application for grant of bail.

On the perusal of the First Information Report, it is evident that the allegation against this petitioner is that he has realized consideration money from the informant and after taking consideration money he has not registered the land in the name of the informant.

Mr. Narayan Singh, learned senior counsel appearing



on behalf of the informant has vehemently opposed the prayer of bail for petitioner. He would submit that the petitioner has made false statement on affidavit and as such he has committed contempt. He placed reliance on the decision reported in 2019 (2) PLJR 93 by this Court as noticed the false affidavit in writ petition and imposed cost of Rs. 50,000/- for swearing false affidavit.

In the writ petition affidavits are filed by the petitioner, whereas affidavits as to criminal antecedents are made by the *pairvikar* of petitioner. Earlier bail of petitioner was granted on merit but on noticing the inaccuracy in the statement made in paragraph 3 of the petition, his bail was cancelled. It may be noted here while granting bail vide order dated 16.01.2019, this Court has noted the fact situation and held out that when remedy in civil form is available refusal of bail after completion of the investigation is not justified.

The bail was cancelled on account in statement in paragraph 3 of the petition as there are 4 criminal cases pending against him. The petitioner has filed the present writ application for grant of bail. In the present writ application he has disclosed the pendency of Bahera P.S. Case No. 249 of 2012, Bahera P.S. Case No. 204 of 2013 and in addition to the present case that is



Bahera P.S. Case No. 292 of 2018. On the objection of the learned counsel for the informant, the Court called for the antecedents report from the S.S.P., Darbhanga. The report contains details of Bahera P.S. Case Nos. 249 of 2012, 204 of 2013, 292 of 2018 are pending against the petitioner. So far as the Bahera P.S. Case No. 420 of 2015 is concerned, that was not mentioned in the affidavit but from the report of antecedent it is apparent that the police has already submitted final form in favour of the petitioner.

Learned counsel for the petitioner would submit that the final form submitted by the police was accepted after protest and the protest petition was also dismissed.

Noticing the aforesaid fact, the Court is of the view that there is no concealment of fact as to criminal antecedent by the petitioner in the present case, therefore, the submission of the learned counsel for informant does not merit any consideration that this petitioner has made false statement on affidavit as to criminal antecedent. Since this Court has already granted bail on merit on 16.01.2019 but for the mis-statement in paragraph 3 of the petition, the bail was cancelled, the Court in the facts and circumstances of the cases, is of the considered view that the case where civil remedy available for execution of



sale deed, for which the petitioner has received consideration, refusal of bail is not justified after completion of investigation.

Considering the aforesaid fact, the Court is inclined to grant bail to the petitioner. Let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Bahera, Darbhanga, in connection with Bahera P.S. Case No. 292 of 2018 subject to the conditions:

1) that all the bailors should be family members of the petitioner.

2) that the petitioner shall extend full cooperation in the conclusion of the Trial and in the event he fails to attend the Trial on two consecutive days without any cogent reason, liberty shall be available to the court below to cancel the bail bonds of the petitioner.

(Anil Kumar Upadhyay, J)

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