

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35297 of 2016

Arising Out of PS. Case No.-266 Year-2014 Thana- NAUBATPUR District- Patna

Brajesh Chandra Singh S/o Late Jagdish Kumar Kuar, R/o Village- Tarwan,
P.S Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. State of Bihar and Anr
2. Mr S.M Farooque Hassan S/o Late S.M. Siddique Marhoom, R/o Mohalla-
202B, Noor Apartment, New Patliputra, Colony, P.S Patliputra, Distt- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Jai Prakash Verma, Advocate
For the Opposite Party No.1	:	Mr. Ram Priya Saran Singh, APP
For the Opposite Party No. 2	:	Mr. Binay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 18-10-2023 The present petition has been filed to quash the condition imposed by Ld. Additional Session Judge-I, Danapur, in the order dated 25.07.2014, passed in B.P. No. 324 of 2014, whereby Ld. Additional Sessions Judge has directed to enlarge the Petitioner on bail.

2. The impugned condition reads as follows :

“ Considering the aforesaid facts as well as the Judgment of the Hon'ble Supreme Court reported in (2005) 13 Supreme Court Cases page 699, the above named accused-petitioner Brajesh Chandra Singh is hereby enlarged on bail on



his furnishing bail bond of Rs.10,000/- with two sureties of the like amount each with condition that within two months of the release from the custody in this case, the petitioner shall either get the sale deed executed of the land in respect of which agreement to sell has been made between the parties or return back the entire earnest money taken by te from the informant and his associate, otherwise the informant will be at liberty to file an application before the learned lower court for the cancellation of bail of the petitioner and the learned lower court will pass the necessary order as per law."

3. Ld. counsel for the Petitioner submits that this condition is too onerous and the Civil Court is already seized of the matter relating to the specific performance of the contract between the parties in regard to the land in question and there was no occasion to grant such a relief under bail jurisdiction in the garb of imposing conditions.

4. Ld. APP for the State also fairly concedes that such conditions cannot be imposed for enlargement on bail, more particularly, when the Civil Court is already seized of the matter.

5. I considered the submissions advanced by both the parties and perused the material on record.

6. I find that Ld. Additional Sessions Judge, by the



impugned order dated 25.07.2014, passed in B.P. No. 324 of 2014, has granted regular bail to the Petitioner in view of his satisfaction that the alleged facts and circumstances constitute a dispute of civil nature. However, he has imposed onerous condition upon the Petitioner to remain on bail. As per the condition, the Petitioner is obliged to execute sale deed in favour of the informant or pay back the earnest money, failing which, his bail bond will be liable to be cancelled. Such a condition is not permissible under bail jurisdiction. The conditions attached with the order granting bail are meant to ensure that the accused participates in the investigation or attends the Court and does not interfere either in investigation or trial by tampering evidence. However, the condition imposed by Ld. Additional Sessions Judge has nothing to do with such object. By imposing the impugned condition, Ld. A.D.J has granted relief to the informant which can be granted only by a Civil Court after adjudication of rival claims of the parties.

7. As such, the impugned condition is whimsical and no way permissible in the eyes of law.

8. Accordingly, the present petition is allowed, setting aside the impugned condition, however, keeping the



remaining part of the order dated 25.07.2014, passed in B.P. No.
324 of 2014 intact.

(Jitendra Kumar, J)

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AFR/NAFR	AFR
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