

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 60058 of 2023

Arising Out of PS. Case No.-26 Year-2023 Thana- GOVINDGANJ District- East Champaran

1. UMASHANKAR MAHTO @ UMASHANKAR PRASAD S/O LATE BISHUN MAHTO R/O VILLAGE- BISHUNPUR MATIYARWA, PS. PAHARPUR, DIST. EAST CHAMPARAN
2. RAMBABU MAHTO S/O LATE BISHUN MAHTO R/O VILLAGE- BISHUNPUR MATIYARWA, PS. PAHARPUR, DIST. EAST CHAMPARAN

... .. Petitioner/s

Versus

1. The State of Bihar
2. ANAND TIWARI S/O LATE SAMPATNATH TIWARI R/O VILLAGE- BANKAT, PS. PAHARPUR DIST. EAST CHAMPARAN

... .. Opposite Party/s

Appearance :

For the Petitioner/s : M/s Umesh Chandra Verma, Hemant Ray, Abhishek Kumar, Advocates

For the Opposite Party/s : Mr Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR JUSTICE RAJIV ROY

ORAL ORDER

2 08-09-2023 Heard Mr Umesh Chandra Verma, learned counsel for the petitioners, Mr Jitendra Kumar Singh, learned APP and the learned counsel for the informant.

2 The petitioners are in judicial custody in connection with Govindganj (Areraj) PS Case No 26 of 2023 registered for the offence punishable under Sections 406, 420, 467, 468, 470, 471, 120B/34 of Indian Penal Code.

3 As per the prosecution story, the accused persons came to informant's house and proposed exchange of land between them. Accordingly, the said exchange took place.



However, latter it was found that the land which was provided by the accused persons is disputed and which led to initiation of proceeding under Section 144 of Cr P C and later on Section 145 Cr P C. Ultimately, an order was passed in the year, 2022 with a direction to the parties to go before the competent Court to decide the matter. Feeling cheated by the accused persons, FIR has been lodged.

4 Learned counsel for the petitioners submits that, admittedly, land was executed in 2014, the informant did not complain then, subsequently, 8 years later, when Section 145 Cr P C proceeding was dropped with a direction to the parties to take recourse to Civil Court, this case has been filed. He further submits that the petitioners are in custody since 26.06.2023 (paragraph 10 of the petition) and does not have criminal antecedent. The last submission is that some of the similarly placed co-accused, namely, Bachchalal Mahto and others have been granted bail by a coordinate Bench of this Court by order dated 11.08.2023 passed in Cr Misc No 47121 of 2023.

5 Learned APP and learned counsel for the informant oppose the prayer for bail stating that while the accused persons took good lands from the informant, disputed land was provided to the informant which led to filing of this case and the



informant was cheated.

6 Taking into account the submission put forward by the parties, the exchange of land took place in 2014, litigation continued for 8 years in 2022, FIR lodged, the petitioners will face the trial, similarly placed co-accused persons have been granted bail, this Court is inclined to extend them the privilege of bail with conditions.

7 Let the petitioners above named be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, East Champaran, Motihari in Govindganj (Areraj) PS Case No 26 of 2023 (GR Case No 314 of 2023) subject to the following conditions:

(i) One of the bailors should be the family member of the petitioners who shall provide official document to show his bona fide;

(ii) The petitioners shall appear on each and every date before the trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bonds by the trial Court itself;

(iii) The petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(iv) The petitioners shall in no way



try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(v) The petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

8 With the aforesaid observations, this application is
allowed.

(Rajiv Roy, J)

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