

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 411 of 2020

Uday Pandey ... Petitioner
Versus
1. The State of Jharkhand
2. Gautam Kumar Singh
3. Puja Singh ... Opposite Parties

CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner : Mr. Ashish Jha, Advocate
For the State : Mr. Saket Kumar, Addl. P.P.
For Opp. Party Nos.2 &3 : Mr. H.K. Shikarwar, Advocate

Order No.08 Dated- 26.03.2021

Heard the parties through video conferencing.

This criminal miscellaneous petition has been filed under section 439 (2) Cr.P.C by the petitioner with a prayer for cancellation of anticipatory bail granted to the opposite party no.2- Gautam Kumar Singh and opposite party no.3- Puja Singh in connection with Complaint Case No.2335 of 2018 by the court of learned S.D.J.M., Hazaribagh in terms of the order dated 06.12.2019, passed in A.B.A. No. 8327 of 2019 passed by this court.

It is submitted by the learned counsel for the petitioner that the opposite party nos.2 and 3 were given the privilege of anticipatory bail consequent upon their undertaking that they will not go over or near the plot no.1658 and 1659 in total of area 5 decimals under *Khata* no.115 of *Mouza* Kadma no.2 in the District of Hazaribagh till any order is passed in their favour by any competent court of law. It is next submitted by the learned counsel for the petitioner that in compliance of the said order of this Court, the opposite party nos.2 and 3 surrendered before the Court of learned S.D.J.M., Hazaribagh in connection with Complaint Case No.2335 of 2018 and furnished bail bond with an undertaking that they will not go over or near the plot no.1658 and 1659 in total of area 5 decimals under *Khata* no.115 of *Mouza* Kadma no.2 in the District of

Hazaribagh. It is further submitted that after being released on the said bail, the opposite party nos.2 and 3 have shifted and started residing in the room of plot no.1658 of total area 2 decimals which has been purchased by the petitioner vide sale deed no.1887/1801 dated 14.03.2018 from the co-accused-Manish Kumar Singh. It is also submitted that the opposite party nos.2 and 3 in utter violation of the said undertaking given by them have disobeyed the same by which they were given the privilege of anticipatory bail. It is next submitted that the petitioner has informed the said violation made by the opposite party number 2 and 3 to the officer-in-charge of Katkamdag Police Station, a copy of which has been annexed as Annexure-3 of this petition. It is further submitted that upon agreed to by the parties an Advocate Commissioner was deputed and he has submitted his report and neither of the parties has disputed the averments made in the said report and in the said report, it has been mentioned that the opposite party nos.2 and 3 were found over two decimals of the said plot no.1658 which land has been purchased by the petitioner. Hence, it is submitted that the bail granted to the opposite party nos.2 and 3 in connection with Complaint Case No.2335 of 2018 by the court of learned S.D.J.M., Hazaribagh in terms of the order dated 06.12.2019, passed in A.B.A. No. 8327 of 2019 passed by this court be cancelled.

The learned counsel for the opposite party nos.2 and 3 on the other hand submitted that the said plot of land over which the opposite party nos.2 and 3 are residing, has in fact been allotted to them in partition and Manish Kumar Singh-the vendor of the petitioner in respect of the said land, has no right to sell the land to the petitioner and a suit is going on between the parties.

Having heard the submissions made at the Bar and going through the materials in the record for the this court finds that it is not disputed by the opposite party nos.2 and 3 that they are, in violation of their undertaking given by them that they will not to or near the plot no.1658, *Khata* no.115 of *Mouza* Kadma no.2 in the District of Hazaribagh, in possession of the same.

In view of the facts of the case as opposite party nos.2 and 3 have undisputedly violated the undertaking of not going over or near *inter alia* the plot no. 1658, *Khata* no.115 of *Mouza* Kadma no.2, P.S. Katkamdag, District-Hazaribagh, hence this Court is of the considered view that this is a fit case where the bail granted to the opposite party nos.2 and 3 in connection with Complaint Case No.2335 of 2018 of the court of learned S.D.J.M., Hazaribagh be cancelled.

Accordingly, the bail granted to the opposite party nos.2 and 3 in connection with Complaint Case No.2335 of 2018 by the court of learned S.D.J.M., Hazaribagh in terms of the order dated 06.12.2019, passed in A.B.A. No. 8327 of 2019 passed by this court is cancelled and the learned S.D.J.M., Hazaribagh is directed to take coercive steps for apprehension of the opposite party nos.2 and 3 to be taken into custody for facing the trial.

(Anil Kumar Choudhary, J.)

Sonu-Gunjan/