

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28320 of 2016

Arising Out of PS.Case No. -383 Year- 2015 Thana -JAKKANPUR District- PATNA

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1. Nripendra Krishna Mahto @ Nupendra Krishna Mahto son of Govind Mahto resident of Mithapur, Noor Compound, P.S. - Jakkanpur, District - Patna.
 2. Devendra Prasad S/o Ram Das Prasad
 3. Ajay Kumar S/o Kapil Dev Vishwakarma
 4. Dhruv Prasad Gupta Son of Late Jawahar Prasad Gupta
 5. Kapildeo Vishwakarma S/o Late Saudagar Vishwakarma all residents of Mithapur, Noor Compound, P.S. Jakkanpur, District - Patna.
 6. Ram Bhajan Roy Son of Late Lolin Rai resident of Bateshar Dutt Lane, Mithapur, P.S. - Jakkanpur, District - Patna.
 7. Suresh Rai @ Suresh Pd Roy S/o Ram Bhajan Rai resident of Bateshar Dutt Lane, Mithapur, P.S. - Jakkanpur, District - Patna.
 8. Ram Naresh Yadav S/o Late Raj Dev Singh Yadav resident of Lakadi Ghar, Mithapur, P.S.- Jakkanpur, District - Patna.
 9. Ashok Kumar son of Late Ram Kishun Sah Owner of Ashok Kirana Mithapur, P.S.- Jakkanpur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sooraj Narain Prasad Sinha, Adv.

For the Opposite Party/s : Mr. Md. Nazir Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 21-11-2016 Heard both sides.

The prayer for anticipatory bail petition of Ram Bhajan Roy petitioner no. 6 and Ashok Kumar petitioner no. 9 have already been rejected, as has become infructuous vide order dated 29.08.2016.

The petitioners no. 1, 2, 3, 4, 5, 7 and 8 apprehend their arrest in Jakkanpur P.S. Case No. 383/2015, registered for the

offences punishable under Sections 147, 149, 384, 379 and 506 of the Indian Penal Code.

The informant filed complaint case no. 3717(C)/2015 which was sent for registration and investigation of the case. The informant alleged that he is a builder known as M/s Niwas Construction. He owns a land area of 30 Kattha situated in Mithapur bearing Khata no. 49, Khesra No. 161 and holding no. 295/269/160. He entered into an agreement with Motawalli Perwej Ahmad on 16.07.2009 for development of the land. The informant kept construction material on 15.10.2015, but on 19.10.2015 all the accused persons came and entered into the construction area assaulted the labours and demanded Rs. 5,00,000/- as extortion. Again on 28.10.2015 the accused persons having armed with different weapons came and after confining Perwej Ahmad, took away 100 bags of cement.

Mr. S.N.P. Sinha learned counsel for the petitioners submits that the petitioners took the land by way of oral sale deed and they constructed their house on the aforesaid land. They are running different shops and also residing. The informant alleged that first occurrence took place on 19.10.2015, but no F.I.R. was lodged on that day. The second occurrence took place on 28.10.2015, but the present complaint petition was filed in the



month of November, 2015 as the Chief Judicial Magistrate sent the complaint petition to the S.H.O. Jakkanpur on 23.11.2015. It is submitted that the petitioners filed complaint case no. 3729C/15 on 04.11.2015. The complaint petition of the petitioners is much earlier to the complaint petition filed by the informant. The petitioners alleged that they have forcibly been evacuated from the aforesaid land. Petitioners also filed cancellation of mutation and map which was sanctioned by the Municipal Corporation for construction of the building and those cases are still pending.

Learned counsel for the informant as well as learned A.P.P. however opposed the prayer for anticipatory bail and submitted that the aforesaid land was transferred to Syed Md. Moinuddin vide Wasika no. 529 dated 03.02. 1917 by one Ram Dhyan Singh. Syed Md. Moinuddin transferred the land in favour of Bibi Zohra his wife. Bibi Zohra executed wakf-al-aulad deed (permanent dedication of property to descendants) on 18.10.1940. The informant entered into an agreement with Motawalli for construction of apartment on the same land. It is submitted that the petitioners are sometimes claiming to be the tenant of the lands and they are sometimes claiming to be the owner of the land by virtue of oral sale deed.

Mr. S.N.P. Sinha learned counsel for the petitioners

made vacillating stand and did not produce any chit of papers to show that in what capacity they are in possession over the land, but it appears from perusal of the complaint petition itself that the first occurrence took place on 19.10.2015, but no case was registered on that day. The second occurrence took place on 28.10.2015, but even thereafter the complaint petition was filed on 23.11.2015 on the basis of which the present F.I.R. was lodged. On the face, there appears to be bona fide land dispute. The informant wanted to take possession of the land either from the tenant or the encroachers.

Considering the facts aforesaid, I find that the petitioners no. 1, 2, 3, 4, 5, 7 and 8 deserve anticipatory bail, they are, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Patna in connection with Jakkanpur P.S. Case No. 383/2015, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Prabhat Kumar Jha, J.)

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