

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49152 of 2015

Arising Out of PS.Case No. -2718 Year- 2014 Thana -KATIHAR COMPLAINT CASE
District- KATIHAR

=====

1. Ashok Yadav @ Ashok Kumar Yadav, S/o Anuplal Yadav
2. Manoj Yadav @ Manoj Kumar Yadav, S/o Late Kripa Nath Yadav
Both residents of village- Ranichak, P.S.- Barari, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ghairi Devi @ Gauri Devi, W/o Late Hira Lal Mandal, resident of Vill-
Chandan Nagar, P.S- Barari, Distt- Katihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner : Mr. Pawan Kumar Singh, Advocate
For the S t a t e : Mr. R.B.Roy Raman(APP)
For O.P. No.2 : Mr. Awadhesh Kumar Mishra, Advocate
Mr. Manoj Prabhakar, Advocate
Mr. Ajay Kumar, Advocate

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 28-01-2016 Heard learned counsel for the petitioners and the

learned counsel for the complainant (O.P. No.2) as well as the

learned counsel appearing on behalf the State.

The petitioners are apprehending their arrest in
connection with Complaint Case No.CA 2718 of 2014 for
allegedly having committed the offence under Sections 419 and
467 of the Indian Penal Code, which is pending in the court of
Sri D.K. Rai, Judicial Magistrate 1st Class, Katihar.

The allegation against the petitioners as per the
complaint petition is that the petitioners as identifiers endorsed



a document purported to have been signed and executed by one Hira Lal Mandal, though on the said date Hira Lal Mandal was already dead. The complainant has alleged that Hira Lal Mandal had purchased a piece of land, bearing Khata No.39(M), Plot Nos.571 & 572 area 18 decimals, on 12.10.1984. It was stated by the complainant, who is the wife of said Hira Lal Mandal, that her husband died at Jalandhar on 24.9.2011 and after the death of her husband, she sold 9 decimals of the aforementioned land to one Jhakshu Mandal, who applied for mutation of the same. It was contended by the complainant that in course of mutation, Jhakshu Mandal came to know that the entire 18 decimals of land have been sold by an imposter claiming himself to be Hira Lal Mandal, vide sale deed No.4551 dated 5.3.2012, to Sumitra Devi. It was only when the complainant made inquiry that it was revealed that the imposter Hira Lal Mandal had put his thumb impression posing himself to be Hira Lal Mandal and the said imposter's thumb impression had been identified by petitioner Nos. 1 and 2 respectively. When the complainant obtained a certified copy of sale deed No.4551 dated 5.3.2012, it was revealed that these two petitioners had actively participated in the execution of the sale deed and identified the said imposter Hira Lal Mandal and also his signature.



Learned counsel for the petitioners submits that the petitioners had no knowledge that the said Hira Lal Mandal was dead on the date of execution of the sale deed and also that they had identified Hira Lal Mandal and put their signatures to the sale deed only after having come to know that a man appearing as Hira Lal Mandal was, in fact, the said Hira Lal Mandal. Learned counsel appearing on behalf of the petitioners further submitted that having been merely identifiers of the alleged sale deed, they cannot be saddled with any criminal liability and further contended that other co-accused persons, who had got the aforementioned sale deed executed in her favour, have been extended the privilege of anticipatory bail by the court below and, therefore, these petitioners, being merely identifiers, may also be extended the same benefit. It has further been contended that the petitioners are not the history sheeters and, therefore, may be extended the same privilege.

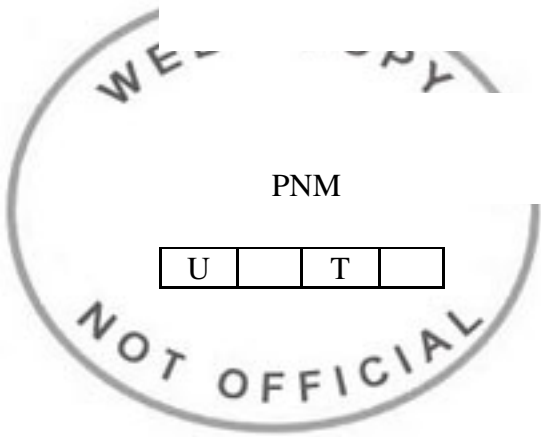
Learned counsel appearing on behalf of the complainant, however, submits that the anticipatory bail application granted in favour of the recipient and beneficiary of the sale deed has been obtained by another fraud inasmuch as the death certificate produced in the court below is a forged and fraudulent document intended to mislead the court. He further



submits that the order granting anticipatory bail to said Sumitra Devi and Prem Lal Mandal is under challenge and cancellation application has already been filed in the court below bringing on record the original death certificate indicating that Hira Lal Mandal had died on 24.9.2011 at Jalandhar. The certificate produced in the court below by Prem Lal Mandal and Sumitra Devi was put to test and an inquiry was conducted, which proved to be a forged and fabricated document, as is evident from the letter of the Block Development Officer, Barari, Katihar, contained in Letter No.1963 dated 6.8.2015. In the said letter, it has been stated that the department had issued a letter to the Municipal Corporation, Jalandhar, which has subsequently certified that the death certificate issued by it was, in fact, correct. As such, it *prima facie* appears that the date of death of said Hira Lal Mandal was 24.9.2011 and not 22.4.2012, as was stated to be the date of death for the purposes of authenticating the document, which is purported to have been attested and signed by the present petitioners as identifiers of the imposter Hira Lal Mandal.

Considering the nature of allegations made and that the petitioners have been a party to the alleged fraudulent transaction, leading to the sale deed, I am not inclined to grant

anticipatory bail to these petitioners. It is, accordingly, rejected.



(Anjana Mishra, J)