

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32546 of 2016

Arising Out of PS.Case No. -79 Year- 2016 Thana -ISHAKCHAK District- BHAGALPUR

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1. Noor Fatma, widow of Gulam Mohammad Mustafa, resident of Mohalla-Bhikhanpur Gumti No.3, P.S.- Ishakchak and District- Bhagalpur.
2. Md. Nazir Ahmad @ Nazir Ahmad, Son of Late Abdul Aziz, resident of Mohalla - Barmatpur, P.S. Kanti and District- Muzaffarpur.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Md. Abu Haidar, Advocate.

For the State : Mr. Rajballabh Singh, A.P.P. 122.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

8 09-03-2017 Heard learned counsels for the petitioners, informant and learned counsel for the State.

The petitioners are apprehending their arrest in connection with Ishakchak P.S. Case No. 79 of 2016 for the offences instituted under Sections 420, 467, 468, 471, 307, 323, 406, 379, 376/511, 504 and 506/34 of the IPC.

The prosecution story, in brief, is that there was an agreement to sale of some land between the informant and the petitioners for which Rs. 46,00,000/- was paid to the petitioners and sale deed was executed on 27.07.2015. Another agreement to sale was also made for other property on 03.11.2014 of Rs. 80,50,000/-. The informant has given Rs. 80,50,000/- to the



petitioners but they started to avoid for execution of sale deed. When the informant alongwith his wife went to the house of petitioner no. 1 regarding negotiation, where two unknown persons abused them. Some altercation also took place. On this, the petitioner no. 2 assaulted the informant on his head with rod. When his wife tried to rescue her husband, she also sustained injury. Petitioner no. 2 caught hold the informant's wife and shut her mouth with bad intention and fallen down on the earth and tried to commit rape with her. On hulla, people came there then two unknown persons gave threatening with revolver and stated not to file any case against the petitioners otherwise they would be killed. In the meantime, petitioner no. 1 snatched chain from the neck of the informant's wife and petitioner no. 2 took Rs. 2100/- from the pocket of the informant.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioners. They have falsely been implicated in the present case. It has further been submitted that from perusal of paragraph nos. 2, 6 and 7 of the case diary, it is evident that there are major contradictions regarding the payments made to the petitioners by the informant. Whatever the payments have been made by the informant that is



not in respect to the property in question. The petitioner no. 1 is a widow lady and 72 years old. There is civil suit also pending in respect to property in question.

On behalf of learned counsels for the informant and the State, it has been submitted that the petitioner no. 2 and the informant had entered into an agreement for sale where the informant is the purchaser of the property in question. The informant has paid Rs. 66,50,000/- to the petitioners through the bank and Rs. 14,00,000/- in cash. On this point, the Investigating Agency has found that Rs. 63,50,000/- has been paid to the petitioners through the bank transactions. In respect to the payments made in cash, there is no clear finding by the Investigating Agency. The outstanding amount to be paid by the informant to the petitioners is only Rs. 50,000/- which he is ready to pay but in spite of that the petitioners are not executing the sale deed in favour of the informant as per the agreement entered into between the parties nor the petitioners are ready to return the amount which have been deposited by the informant.

Considering the aforesaid facts and circumstances, as the petitioner no. 1, Noor Fatma, is a widow lady aged 72 years old, let her, be released on bail in the event of her arrest or surrender before the learned court below within a period of six weeks from



today in connection with Ishakchak P.S. Case No. 79/2016 on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Bhagalpur, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

As far as the petitioner no. 2, Md. Nazir Ahmad @ Nazir Ahmad is concerned, considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to him. The same is rejected in connection with Ishakchak P.S. Case No. 79 of 2016, pending in the court of learned C.J.M., Bhagalpur. If the petitioner no. 2 surrenders in the court below, the same shall be considered on its own merit without being prejudiced by the order of this Court.

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(Sudhir Singh, J)

