

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23194 of 2019

Arising Out of PS. Case No.-397 Year-2017 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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1. MAIMUN NISHA, aged about 62 years, Female, W/o Late Zahid Hussain, Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi
 2. Hassan Imam @ Ful Babu @ Hassan Imam Akhtar, aged about 28 years, Male, S/o Late Zahid Hussain, Resident of village- Gaura, P.S.- Nanpur, District- Sitamarhi ... Petitioners

Versus

1. The State of Bihar
2. Hamid Hussain, S/o Late Shekh Abul Hassan, Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi ... Opposite Parties

Appearance :

For the Petitioners : Mr. Sanjay Sinha, Adv.
For the Opposite Parties : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

4 27-08-2019 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the state.

The petitioners seek pre-arrest bail in connection with Complaint Case No. C 1-397 of 2017 for the offences alleged under Sections 418, 420, 465, 466, 467, 468, 471, 474 and 477 of the Indian Penal Code.

The accusation is that Badrul Hasan, uncle of opposite party no. 2, executed the gift deed (Wakf Nama) on 12.02.1946 in the name of Mosque, situated in village Gaura, in terms that he will be the Motawalli during his life time and after his death



his wife, Akhtarun Nisa, will be Motawalli of the property. If no male issue is born, then, this complainant, Hamid Husain, will be the Motwalli and, accordingly, Wakf Nama was registered in the Bihar State Sunni Wakf Board, Patna. Badrul Hasan, uncle of the informant, died living behind his wife, Akhtarun Nisa, who also died on 27.11.2015. Thereafter, opposite party no. 2, being Motawalli, started looking after the affairs of the Wakf Property, but, Maimun Nisha, daughter of Badrul Hasan, and her four four sons and others started interfering in the management and income of the Wakf affairs. Thereafter, he obtained the copy of the registered Wakf property, then, he found that in the condition where the only word “son” was written, the word “daughter” also inserted later on. As such, the petitioners made interpolation in the Wakf deed for depriving the right of Motwalli of complainant/opposite party no. 2.

The learned counsel for the petitioners submits that the present complaint case has been filed by opposite party no. 2 to put undue pressure upon petitioners, so that she may not claim her right of Motwalli according to Wakf deed, executed by her father, late Badrul Husain.

Learned Additional Public Prosecutor for the State opposes the prayer for pre-arrest bail.



Having regard to the facts and circumstances of the case, let the petitioners, above named, in the event of surrender/arrest, within a period of four weeks from today, in connection with Complaint Case No. C 1-397 of 2017 shall be released on pre-arrest bail on furnishing bail bonds of Rs.10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the Subdivisional Judicial Magistrate, Pupri, Sitamarhi, or the successor Court subject to the conditions as laid down under Section 438(2) Criminal Procedure Code.

(Rajendra Kumar Mishra, J)

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