

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55550 of 2019

Arising Out of PS. Case No.-836 Year-2017 Thana- NAWADA District- Nawada

1. Shoaib Khan @ Shoib Khan, aged about 45 years, (Male), Son of Late Noor Khan, Resident of Village - Kena, P.O.- Kena, P.S.- Muffasil, Distt - Nawada.
2. Sahzadi Khatoon @ Sahajadi Khatoon, aged about 63 years (Female), Wife of Late Mokhtar Khan, Resident of Village - Kena, P.O.- Kena, P.S.- Muffasil, Distt - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shahzad Hassan Khan, Adv.
For the Opposite Party/s	:	Mr. Sanjay Kumar Singh, APP.
For the Informant	:	Mr. Pramod Rajpati, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 03-09-2019 Heard Mr. Shahzad Hassan Khan, learned counsel for the petitioners and Mr. Pramod Rajpati, learned counsel appearing on behalf of the informant.

Learned counsel appearing for the informant submits that the petitioner no. 1 has concealed the fact regarding criminal antecedent against him inasmuch as he was an accused in Nawada Town P.S. Case No. 104 of 2018 registered under Sections 341, 323, 384, 379, 504, 34 IPC. Learned counsel for the informant further submits that the direction may be issued to the concerned Magistrate or the Registrar General to lodge an FIR against against petitioner no. 1 for concealment of fact.



On the other hand, learned counsel appearing for the petitioners submits that due to bonafide mistake and communication gap, the present case could not be stated in bail petition and this was not an intentional concealment on part of the petitioner no. 1 and he is a person of repute and is running a business at Chattisgarh.

The petitioners apprehend their arrest in connection with Nagar P.S. Case No. 836 of 2017 registered under sections 420, 467, 468, 341, 323, 379, 506 and 34 of the IPC.

The allegation against the petitioners, as per the first information report, is that the Zamabandi of the land in old Khata No. 272, Plot No. 1531 having been area of 29 decimal and new Khata No. 912, Plot No. 1811 situated in village Kena, P.S. Muffasil, District Nawada standing in the name of ancestor of Khatiyani raiyat Ghafur Khan. It has further been alleged that 93 decimals was transferred in the name of Bibi Khatoon, wife of Habib Khan on 23.07.1966. During life time Bibi Khatoon remained in the possession of the said land but mutation of the land was not done and on 10.11.1983, Bibi Khatoon transferred the land in the name of Rashid Khan son of Majid Khan and died on 21.08.1988.

It has further been alleged that after death of Bibi



Khatoon, Rashid Khan and Sayeed Khan remained in possession over the said land and Halka Karmachari issued demand in the name of Bibi Khatoon vide Demand No. 130 of 2005 without any mutation order and thereafter Revenue Karamchari in connivance with the accused Shoaib Khan issued demand in favour of Sahzadi Khatoon petitioner no. 2 wife of Mokhtar Khan after using whitener on the demand register-II without order of Anchal Adhikari, Nawada and after that rent receipt was issued in order to grab the aforesaid land of the informant.

It has further been alleged that on 20.11.2017, the informant was going to Anchal Office and when reached near Nawada Circle Office, Shoaib Khan with two other unknown persons surrounded him and threatened him to leave possession over the said land and abused the informant at pistol point and snatched the golden chain from his neck.

Learned counsel appearing for the petitioners submits that the fact of the matter is that petitioner no. 2 is the purchaser of 29 decimals of land in the year 1979 from its bonafide owners Aziz Khan and Majid Khan. Learned counsel further submits that after the purchase the mutation of the said land was done in favour of petitioner no. 2 and rent receipts were being



issued regularly in her favour. Learned counsel further submits that the allegation against the petitioners are concocted and does not give rise to any criminal offence inasmuch as from perusal of the first information report, it appears that there is a civil dispute between the parties and the informant has filed a title suit bearing Title Suit No. 14 of 2017 and further another title suit has been filed by informant bearing Title Suit No. 44 of 2019 pertaining to the same land.

On the other hand, learned counsel for the informant vehemently opposed the anticipatory bail application and submits that the petitioner no. 1 has concealed the fact regarding his criminal antecedent and further in connivance with the Revenue Karamchari and using whitener, manipulation in the revenue record has been made and the Zamabandi has been created without any mutation order.

After having heard learned counsel for the parties and taking into consideration the fact that it appears that there is a civil dispute i.e. title suits are pending between the parties and the petitioner no. 2 claims to be a bonafide purchaser of piece of land in the year 1979, I am inclined to grant anticipatory bail to both the petitioners.

Accordingly, both the petitioners, above named, in the



event of arrest or surrender before the learned Court below within a period of four weeks from today shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nawada in connection with Nagar P.S. Case No. 836 of 2017 subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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