

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68797 of 2019

Arising Out of PS. Case No.-83 Year-2019 Thana- BALRAMPUR District- Katihar

1. Malik Kadir @ Kadir, Son of Malik Mehruddin.
2. Malik Izhar @ Md. Izhar Ahmed, Son of Malik Mehruddin.
3. Malik Istkhar @ Malik Istekhar @ Ittekhar Son of Malik Mehruddin All are resident of Village- Ufrail, Police Station- Balrampur, District- Katihar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Md. Rahmatullah, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 06-03-2020 Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the informant.

The petitioners seek pre-arrest bail in connection with Balrampur P.S. Case No.83 of 2019 registered for the offence punishable under Sections 341, 323, 379, 354B, 504 and 506 read with 34 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioners that nothing has happened in the manner alleged in the first information report. In fact, the informant has lodged the instant case due to difference between them for partition of ancestral property. The informant is none else but the uncle of the petitioner and co-sharer of the ancestral property. The land as mentioned in the FIR is the Khatiyani land of the father of the



petitioner. He got his share and the informant being descendant of the co-sharer having greedy eye wanted to disturb the possession of the petitioner. The wife of the informant also appeared before the D.C.L.R. Barsoi by filing a case No.62 of 2018-19 for right and possession over the lands, as she purchased from the co-sharer of the father of the petitioner. The learned D.C.L.R. after perusing the documents on record dismissed the claim of the wife of the informant observing that claimant should approach before the competent civil court. It is further contended that the petitioners having been possessing the land since long time without any obstruction and the informant having mala fide intention in order to disturb the peaceful possession created a scene by sending his daughter while he was busy in cultivation of his land. As some altercation and quarrel took place, the instant case has been registered.

Learned counsel for the State and learned counsel for the informant have vehemently opposed the application for grant of pre-arrest bail to the petitioners. They have stated that though the petitioners are co-villagers and there is some dispute relating to land, the manner in which the offence was committed does not entitle them to be released on bail in anticipation of arrest.



Having heard the parties, under the facts and circumstances of the case, in the event of arrest or surrender in the court below, the petitioners are directed to be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-VI, Katihar in connection with Balrampur P.S. Case No.83 of 2019 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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