

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85305 of 2019

Arising Out of PS. Case No.-3530 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Dafedar Singh, aged about 50 years, Male, Son of Late Dwarika Prasad, Resident of Village - Parsupur, P.O. - Kharsuliya, P.S.- (Police Kotwali), Naya Ganw, Distt - Ata, Uttar Pradesh, PIN (205301)
 2. Data Ram @ Pappu, aged about 48 years, Male, Son of Late Durvijay Singh, Resident of Village - Parsupur, P.O. - Kharsuliya, P.S.- (Police Kotwali), Naya Ganw, Distt - Ata, Uttar Pradesh, PIN (205301)
 3. Anil @ Anil Kumar, aged about 33 years, Male, Son of Late Durvijay Singh, Resident of Village - Parsupur, P.O. - Kharsuliya, P.S.- (Police Kotwali), Naya Ganw, Distt - Ata, Uttar Pradesh, PIN (205301)
 4. Rahis Pal Singh, aged about 47 years, Male, Son of Late Jilendar Singh, Resident of Village - Parsupur, P.O. - Kharsuliya, P.S.- (Police Kotwali), Naya Ganw, Distt - Ata, Uttar Pradesh, PIN (205301)
 5. Arun Kumar, aged about 26 years, Male, Son of Rahis Pal Singh, Resident of Village - Parsupur, P.O. - Kharsuliya, P.S.- (Police Kotwali), Naya Ganw, Distt - Ata, Uttar Pradesh, PIN (205301)

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ram Dulare Yadav, Ex-Soldier, Son of Sri Najar Singh, Resident of Mohalla - House of Sri Nageshwar Rai, South Chhtra Gupt Nagar, East of Sanjivani Hospital, Kankarbagh, P.S.- Patrakar Nagar, Distt - Patna - 800020.

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Raja Surendra Mohan, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP
For the Informant	:	Mr. Ajit Ranjan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 09-09-2020 Heard Mr. Raja Surendra Mohan, learned counsel for the petitioners, Mr. Sanjay Kumar Singh, learned Additional P.P. and Mr. Ajit Ranjan Kumar, learned counsel for the complainant-opposite party no.2.

The petitioners apprehend their arrest in Complaint



Case No.3530 C of 2013, for the offences allegedly committed by the petitioners under Sections 380 and 34 of the Indian Penal Code.

The complainant in sum and substance alleged that the petitioners came to the residence of the complainant on 02.10.2013 at about 7 in the night along with Moti Lal, the brother of the complainant. The petitioners expressed desire to stay at the residence of the complainant. The complainant allowed them to stay in the room but when the petitioners left the house in the morning, the complainant found that many articles kept in the room where the petitioners stayed were missing.

Learned counsel for the petitioners submits that the petitioners in fact never stayed at the house of the complainant. The dispute is going between two sides for partition of the land being Title Partition Suit No.123 of 2011, pending in the court of the learned Civil Judge, Junior Division, District Ata, Uttar Pradesh. On account of such land dispute, the petitioners have falsely been implicated in the case. It is submitted that the learned Sessions Judge has rejected the prayer for anticipatory bail of the petitioners on the ground that process under Section 82 Cr.P.C. has already been issued against the petitioners and, therefore, the prayer for anticipatory bail is not maintainable. It is further submitted that the petitioners never received any summon nor any



service report is on record, therefore, the petitioners deserve anticipatory bail.

Learned counsel for the complainant vehemently opposed the prayer for anticipatory bail and submitted that the complainant and other witnesses have very categorically stated that the petitioners stole away different articles from the house of the complainant.

Perused the records. It appears that the petitioners agnates of the complainant and there is land dispute between the two sides. Title Partition Suit being Title Partition Suit No.123 of 2011 is pending in the court of the learned Civil Judge, Junior Division in which the complainant is also a party. On the face of it, it appears that on account of dispute, the complaint is filed at Patna alleging therein that in the night, the petitioners stayed in the house of the complainant and when they left the house of the complainant, the complainant found many articles missing. The complainant did not see the petitioners committing any theft.

Considering the facts aforesaid, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt of the order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-VIII, Patna in connection



with Complaint Case No.3530 C of 2013, subject to the conditions
laid down under Section 438(2) of the Code of Criminal
Procedure.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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