

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24409 of 2020

Arising Out of PS. Case No.-444 Year-2019 Thana- MASHRAK District- Saran

1. TRILOKI RASTOGI S/o Late Tuntun Prasad Rastogi @ Late Tuntun Prasad Resident of Village-Mashrakh, P.O. and P.S.-Mashrakh, District-Saran at Chapra.
2. Chandan Rastogi Son of Shyambabu Rastogi Resident of Village-Mashrakh, P.O. and P.S.-Mashrakh, District-Saran at Chapra.
3. Kajal Rastogi Wife of Triloki Rastogi Resident of Village-Mashrakh, P.O. and P.S.-Mashrakh, District-Saran at Chapra.
4. Udai Shankar Prasad Son of Late Bhola Prasad Resident of Village-Chainpur, P.O. and P.S.-Mashrakh, District-Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar Manglam, Advocate
For the Informant	:	Mr. Jitendra Narayan, Advocate
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

18 15-12-2021

Heard Mr. Shashi Bhushan Kumar Mangalam,

learned counsel for the petitioners, Mr. Jitendra Narayan,

learned counsel for the informant and Mr. Nawal Kishore

Prasad, learned Additional Public Prosecutor appearing for

the State.

Petitioners apprehend arrest in connection with
Mashrakh P.S. Case No. 444 of 2019 registered for the
offences punishable under Sections 341, 387, 406, 420,
120(B), 504 and 506 of the Indian Penal Code, 1860.



The prosecution story as per the First Information Report is that the petitioner No. 1 being younger brother of the informant told her on phone that for settling the previous loan and to start a new business, he needs 70,00,000/- rupees as fresh loan, for which, Chandan Rastogi is ready, but in lieu of the loan, he wants a security by way of mortgage of land. Accordingly, the petitioner No. 1 requested the informant that if she comes to Chapra and becomes identifier of the mortgage deed of the land, Chandan Rastogi would finance him loan of Rs.70,00,000/-. On request of her brother Triloki Rastogi, i.e. petitioner No. 1, the informant arrived at Mashrakh Registry office to fulfill the formality being identifier of the mortgage deed and thumb impression and photographs of the informant were taken in the Registry Office and, thereafter, Triloki Rastogi brought her to Patna and she boarded the Flight on the next date for Mumbai. It has further been alleged that after sometime, the elder brother of the informant Tribhuwan Rastogi informed her that she had transferred the entire landed properties, upon which, she again came to her parental home and obtained the documents from the



Registry Office. Thereafter, she came to know that the petitioners and others had prepared a forged sale deed of the entire land of the informant and got executed in favour of Triloki Rastogi and Chandan Rastogi (Petitioners No. 1 and 2).

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case inasmuch as the informant after executing the sale deed in favour of the petitioners No. 1 and 2 and after receipt of the amount, at the instance and instigation of her elder brother, has lodged a false case against the petitioners. He referring to the copy of the sale deed (Annexure-2) submits that from perusal of the sale deed in question, it would be evident that at the top of the sale deed, the title of the documents as 'sale deed' is mentioned in the bold letter and the informant being an educated lady, cannot say that she was not aware about the nature of the document, upon which, she had signed with an open eye. Learned counsel further submits that the entire consideration amount was received by the informant and endorsement to that effect has been made in the margin of the sale deed written by the informant herself



with her signature. He also submits that the allegation of the informant that petitioners No. 1 and 2 misrepresented the informant and instead of making the informant as identifier in a mortgage deed, has got the sale deed executed, is palpably false. He next submits that even the minor daughters of petitioner No. 4 have been made accused in this case with oblique motive by the informant.

Learned counsel for the petitioners submits that during course of investigation, the statement of the Sub Registrar, Mashrakh, was recorded by the Police and from perusal of Paragraph-92 of the case diary, it would be evident that Sub Registrar has categorically stated that upon query being made to the informant she had stated that consideration amount has already been accepted and received by her. He next submits that mother of the informant in her statement recorded in paragraph-85 of the case diary has also stated that the informant has received the consideration amount for the land in question and has executed sale deed in favour of the petitioner Nos. 1 and 2.

On the other hand, learned counsel for the informant submits that the informant has not received any



amount from the purchaser i.e. the petitioner Nos. 1 and 2 and the same is not reflected in the bank account of the informant as Annexure-G series of the counter affidavit filed by the informant.

In reply, learned counsel for the petitioners submits that from perusal of Annexure-G series, it would be evident that the informant was not having her bank account on the date of sale and execution of the deed in question i.e. 24.8.2019 and the bank account was opened by the informant on 12.09.2021. He further submits that the consideration amount was not received by the informant through the Bank.

Regards being had to the submission made by the parties and taking into consideration the materials on record in totality, the fact that both the parties are closely related and dispute between the parties appears to be with regard to the validity of the sale deed giving rising to a civil dispute, I am inclined to grant anticipatory bail to the petitioners.

Accordingly, in the event of arrest or surrender before the court below within four weeks from today, petitioners, above named, shall be released on anticipatory



bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VI, Saran at Chapra, in connection with Mashrakh P.S. Case No. 444 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J)

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