

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35537 of 2020

Arising Out of PS. Case No.-138 Year-2019 Thana- FULKAHA District- Araria

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1. Satyendra Yadav @ Satendra Yadav, aged about 50 years (M), son of late Mohan Yadav.
 2. Hansraj Yadav, aged about 27 years (M), son of Satyendra Yadav.
 3. Chandan Yadav @ Chandani Yadav, aged about 25 years (M), son of Satyendra Yadav.
- All are resident of village- Mirzapur, Ward No.- 01, Police Station- Fulkaha, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Rana, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Arun Kumar Mandal, Advcoate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 23-07-2021

The matter has been heard *via* video conferencing.

2. The petition is restricted to petitioners no. 2 and 3 as earlier it stood withdrawn on behalf of petitioner no. 1.

3. Heard Mr. Mukesh Kumar Rana, learned counsel for the petitioners no. 2 and 3; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Arun Kumar Mandal, learned counsel for the informant.

4. The petitioners no. 2 and 3 apprehend arrest in connection with Fulkaha PS Case No. 138 of 2019 dated 12.09.2019, instituted under Sections 323, 447, 420, 120-B, 467, 468, 379 and 427 of the Indian Penal Code.



5. The allegation against the petitioners is that the ancestral land of the informant was shown to have been bought by petitioner no. 1 from the late father of the informant through registered deed which was found to be forged and fabricated and on the basis of the said deeds, applications were made for mutation in the official records in favour of the petitioner no. 1.

6. Learned counsel for the petitioners no.2 and 3 submitted that the matter is purely civil in nature as the remedy before the informant was to move the Civil Court in the matter. Moreover, it was submitted that the petitioners no. 2 and 3 are sons of petitioner no. 1 and just because of the relationship, they have been made accused without they having any role in the entire episode. It was submitted that the antecedent with regard to the petitioners has not been stated in the petition due to the fact that the deponent had not instructed him. However, he submitted that when he had asked the deponent specifically as to whether the petitioners were accused in any case, he informed that because of bail granted in those cases, according to his understanding, it amounted to there being no criminal antecedent of the petitioners.

7. Learned APP, from the case diary, submitted that there are more than ten cases against the petitioner no. 1, though the petition on his behalf has been withdrawn and further, that



against petitioners no. 2 and 3, there are at least three more cases under various sections, details of which are Fulkaha PS Case No. 118 of 2019 under Sections 366-A/34; Fulkaha PS Case No. 102 of 2019 under Sections 341, 323, 504, 506, 448, 447/34 of the Indian Penal Code and Fulkaha PS Case No. 25 of 2014 under Sections 143, 145, 151, 152, 153, 186, 188, 504, 109 of the Indian Penal Code. It was submitted that witnesses have stated that the petitioners no. 2 and 3 were in league with their father i.e., the petitioner no. 1, in committing the crime of creating forged documents to show that the petitioner no. 1 had got various properties through registered sale deeds.

8. Learned counsel for the informant submitted that on the last occasion he had pointed out to the Court with regard to suppression of the criminal antecedent and the Court had, thus, called upon learned APP to obtain up-to-date legible photocopy of the case dairy as also the detailed antecedent report and, now, it has been revealed that the petitioners have a long track record of cases against them under serious sections of the Indian Penal Code. Thus, it was submitted that this is a fit case for dismissal of the case along with imposition of costs.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contentions of learned APP and



learned counsel for the informant. Besides the witnesses having supported the prosecution case, and stating that the petitioners no. 2 and 3 were also in league with their father in the crime, the suppression of fact by not mentioning the criminal antecedent, which is of numerous cases and, in fact, more than ten cases for the petitioner no. 1 and at least three cases for the petitioners no. 2 and 3 and the defence being taken that as they were on bail, such facts were not disclosed, in the considered opinion of the Court, cannot be accepted as a valid defence as patently and clearly it is not worthy of being accepted. The Court would have imposed heavy cost on the petitioners for such suppression. However, as ultimately, the Court is not inclined to grant pre-arrest bail to the petitioners no. 2 and 3, it refrains from imposing cost.

10. For the reasons aforesaid, the petition stands dismissed.

11. Interim protection given to the petitioners no. 2 and 3, under dated 21.06.2021, stands withdrawn.

(Ahsanuddin Amanullah, J)

J. Alam/-

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