

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25341 of 2022

Arising Out of PS. Case No.-751 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

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SANJAY KUMAR S/O LATE NAND KISHORE PRASAD R/o village-
Singhaul, Ward No. 1, P.S.- Muffasil, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Senior Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 12-08-2022 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the informant.

2 Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

3. The petitioner is in judicial custody in connection
with Nagar P.S. Case No. 751 of 2021 for the offences under
Sections 167, 420, 466, 467, 468, 471, 472, 473, 474, 477, 504,
506, 120(B)/34 of the Indian Penal Code.

4. The prosecution story, in brief, is that

(i) one Sunil Kumar Sinha filed a petition by way of
complaint in the court of learned Chief Judicial Magistrate,
Begusarai being Complaint Case No. 1299 of 2021 alleging that
in village Singhaul, Khata No. 32 Khesra No. 524 (area 6
kathas) was purchased by the complainant and family members



from Akhileshwar Prasad, Satish Kumar and Girish Kumar, sons of Late Baleshwar Prasad on 14.06.1999 through different 'Kewalas'.

(ii) out of the said six kathas of land, three kathas of land was purchased by the complainant, his brother and father by two 'kewalas' dated 14.06.1999 whereas three kathas of land was purchased by the aunt and cousin of the complainant on the same date and Jamabandi No. 1793 and 1794 was instituted in the name of the complainant and his brother and father which was carved out from Jamabandi No. 895 standing in the name of the owner from whom they have purchased the land and up-to-date rent receipt is being issued in their name and from the date of purchase the complainant has got title and possession over the plot in question. Further averment was that since 1999, the complainant has constructed pucca residential house in which they are residing with their entire family whereas his cousin Anil Kumar Sharma has also constructed four rooms of pucca house in which roof has to be casted. Further averment is that the accused persons have got no concern with the said purchased land;

(iii) on 05.07.2021, at about 8:00 A.M. Mr. Irshad Alam, Pravin Kumar along with 3-4 unknown persons came to



the house of complainant and they were having some documents in their hand and further gave threatened the father of the complainant that the said land has been purchased by them from Ajay Kumar Sinha and Sanjay Kumar and asked them to vacate the said land and house within month otherwise there will be bad consequence;

(iv) suspicion being raised on 05.07.2021, the complainant checked the official web site of the registration department and learnt that the aforesaid land belonging to the complainant, its some part was sold by Ajay Kumar Sinha, Sanjay Kumar both sons of Late Nand Kishore Prasad to the local land grabber in collusion of Sub Registrar, Rishi Kumar Sinha and office staff, Abhishek Kumar after fixing the photographs on 17.06.2021 being Registration Deed No. 4150 and 4152 and the same was sold in the name of Nikki Kumari and Rakhi Kumari;

(v) after getting the said information, he obtained certified copy of the said sale deed and learnt that on 17.06.2021, Ajay Kumar Sinha and Sanjay Kumar sold 1 katha 5 dhurs of land which belongs to the complainant in order to suffer him loss and by giving forged photographs and forged 'jamabandi'. The land was sold to Nikki Kumari wife of



Ajitabh. Similarly on 17.06.2021 vide sale deed No. 4152, they sold 1 katha of land to Rakhi Kumari wife of Pravin Kumar knowing fully well that they have no title and possession over the land in question and in the aforesaid two sale deed, Md. Irshad Alam and Vijay Kumar Sinha were witnesses who are land grabber and agent of the area and photo copy of those two documents were also annexed and aforesaid two sale deed the aforesaid land was shown to be the residential vacant land whereas the said land was already sold in which the complainant has peaceful possession and title and has constructed pucca residential house and is living on the said house with his family members since long and photograph of the same was also annexed.

(vi) He further alleged that in both the sale deed the name of grandfather was written as late Harihar Prasad whereas the name of grandfather was late Dwarika Prasad and further alleged that 'jamabandi' was running in the name of Harihar Prasad which is wrong and incorrect whereas Harihar Prasad died prior to 1950. Further allegation is that seller has forged the same with bad intention and mentioned 'jamabandi' no. 259 and 108 and the kewala (registered deed) has been prepared with wrong facts and both the sale deeds/photographs which has



been sold is of the land of 'Chaur' and not related with the residential land of the complainant;

(vii) It has further been alleged that in course of enquiry they learnt that accused no. 1 in collusion with the staff of Sub Registry and under the criminal conspiracy executed the sale deed in the name of Irshad Alam, Nikhat Jabi and Jakir Hussian with regard to the land situated over katha no. 82 khesra no. 341 on 29.06.2021 on the basis of false statement whereas the aforesaid land belongs to Parmanand Singh, who till today is in possession of the same and its photograph were also annexed. The lands of aforesaid five forged kewala belongs to different mauza and different places whereas photographs are of the place which itself goes to show that the people of Sub Registry office are in collusion with the other accused persons.

(viii) He further stated that due to the aforesaid forgery by accused no. 5 and 6 on 05.07.2021 the father of the complainant after coming to know about it became seriously ill and he never recovered and finally died on 14.07.2021. He further alleged that Ajay Kumar Singh, Sanjay Kumar, Vijay Kumar Sinha, Pravin Kumar and Irshad Alam knowing fully well that the aforesaid documents are forged one being registered deed no. 4150 and 4152 on different places showing



them to be genuine to different persons, they are trying to take illegal gain. It is further alleged that from the aforesaid fact it is clear that accused nos. 8 and 9 who is getting the benefit of discharging their official duty because they also participated in conspiracy of cheating, forgery while preparing the deed no. 4150 and 4152 by which other accused received illegal gain, knowing fully well that the vendor is not the title holder accused no. 5 and 6 became the witness and thereafter the accused persons created forged documents and got a huge loss in lacs of rupees and act done by accused nos. 7 and 8 cannot be said to be in discharge of his official duty.

(ix) He further stated that he went to the police station along with relevant documents on 18.08.2021 for lodging FIR but till date Officer Incharge has not instituted the case and thereafter on 17.08.2021, 18.08.2021 and 19.08.2021 the letters were sent through registered post to S.P. , Begusarai as well as to other places but inspite of that FIR was lodged and hence the complaint.

5. Mr. Ajay Kumar Thakur, learned Senior Counsel for the petitioner submits that the matter relates to Khata No. 32, Khesra No. 524 which is an ancestral land of the petitioner herein. He straightway brought the attention of this Court to



Annexure-2 of the bail application to show that the Title Suit (Probate) Case No. 1/89/1/94 was fought between the father of the petitioner herein and the family of the seller from whom the land was purchased by the informant. The learned First Additional District Judge, Begusarai vide order dated 8th of July 1994 decided the title of the said land (Khata No. 32, Khesra No. 524) in favour of the father of the petitioner. Accordingly, the suit was decreed and the probate was issued in favour of the plaintiffs (Nand Kishore Prasad Sinha, father of the petitioner).

6. He further submitted that the seller of the land to the informant, Akhileshwar Prasad, Satish Prasad and Girish Kumar (all brothers), having lost the said probate, preferred First Appeal No. 540 of 1994 before the Patna High Court which however, came to be dismissed on 26.08.2015 due to the non compliance of the order dated 29.07.2015 by the Hon'ble Court (Annexure-3 to the bail application). He further contended that earlier the Akhileshwar Prasad and others had also preferred another Title Suit No. 82 of 1995 against the father of the petitioner which too was dismissed on 18.10.2006 due to non-prosecution (Annexure-4 to the bail application).

7. He as such submitted that not only the family of the petitioner had won all the suits relating to the land in



question and there was no case pending against the orders passed, as stated above, they were in complete control of the and inasmuch as physical possession of the land and when the need arose, they rightly sold the said land to Rakhi Kumari and Nikki Kumari in 2021 (17.06.2021 vide registered sale deed). Accordingly, the purchasers also came in physical possession of the land.

8. Coming to the case in hand, learned Senior Counsel submitted that only after the FIR was instituted against the petitioner that it came to the family's notice that after loosing all the legal battle surreptitiously, the Akhileshwar Prasad's family executed some deeds, who however, never visited the land in question and/or had any control.

9. He further submits that if the Akhileshwar Prasad and family had fraudulently executed the deeds despite the fact that neither they had the title of the land nor the possession, the informant should have lodged FIR against them and not the petitioner herein. He lastly submits that if any person had any grievance, it could have been Rakhi Kumari and Niki Kumari to whom the petitioner/family executed the sale deed and under no circumstances the purchasers of land from Akhileshwar Prasad/family can lodge an FIR against the petitioner herein.



10. He further submitted that the purchaser of the land Rakhi Kumari has already been granted the privilege of bail by a co-ordinate Bench of Patna High Court. He submits that it is unfortunate that the persons in whose favour there is title of the land as also the physical possession and have *bona fide* sold the land have been implicated in the case and despite having no criminal antecedent, he is in jail since 08.02.2022 (as stated in paragraph-24 of the bail application). He as such submits that the petitioner deserves bail.

11. Per contra, learned counsel for the complainant/informant submitted that the lands were purchased in 1999 and they were in physical possession but the petitioner/family tried to shake the boat and later sold the land in 2021 whereafter the purchaser tried to dispossess them from the land prompting them to prefer the present complaint/FIR.

12. Heard the rival parties. Although, this is a bail application, it is important to incorporate certain facts for clarity.

13. As per the learned counsel for the petitioner, admitted position is that the land in question (Khata No. 32, Khesra No. 524) was decided in favour of the petitioner's family on 08.07.1994 (Annexure-2 to the bail application). First appeal preferred by the aggrieved party also got dismissed for



non-prosecution on 26.08.2015 (Annexure-3).

14. It is the further contention of the petitioner that the Akhileshwar Prasad/family on earlier occasion after loosing the Title (Probate Case No. 1/89/1/94) had preferred another Title Suit No. 82 of 1995 (Annexure-4) which too was dismissed for non-prosecution on 18.10.2006. Thus so far as the title of the land in question is concerned as per the documents available on record not refuted by the learned counsel for the complainant is/are that they were decided in favour of the petitioner's family.

15. Be that as it may be, so far as the bail application is concerned, considering all the aforesaid facts put forward by the learned Senior counsel for the petitioner not refuted by the counsel for the complainant as also the fact that pursuant to the lodging of the FIR and arrest of the petitioner on 08.02.2022, charge sheet stands submitted and as such there is no question of tempering with the evidence and further has no criminal antecedent and charge sheet stands submitted, this Court is inclined to grant him the privilege of bail.

16. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of Chief Judicial Magistrate, Begusarai in connection with Nagar P.S. Case No. 751 of 2021.



17. Nothing recorded in the present bail application shall be taken up for consideration for the purposes of the trial.

18. With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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