

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46752 of 2021

Arising Out of PS. Case No.-18 Year-2020 Thana- SUHAIL District- Gaya

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Aquil Hasan Kazmi @ Aquil Hussain Kazmi Son of Late Saiyad Jamil Hussain Kazmi Resident of Village- Salaiya, P.S.- Sohail, District- Gaya, at present residing in Mohalla Ali Nagar, Lal Kothi, P.S.- Pali, District- Jahanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saiyad Niyaz Hasan Kazmi Son of Late Reyajul Hasan Kajmi Resident of Village- Salaiya, P.S.- Sohail, District- Gaya. at present resident of opposite Polytechnic College, Ashok Rajpath, P.S.- Alamganj, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anshu, Advocate.
For the State	:	Mr. Suresh Prasad Singh, APP.
For the Informant	:	Mr. Saiyad Asgar Nazmi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-06-2022 Heard Mr. Anshu, learned counsel for the petitioner, Mr. Saiyad Asgar Nazmi, learned counsel for the informant and Mr. Suresh Prasad Singh, learned Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

The petitioner apprehends his arrest in connection with Sohail P. S. Case No. 18 of 2020 registered for the offences punishable under Sections 419, 420, 467, 468, 471, 472, 504 read with Section 34 of the Indian Penal Code.



As per the prosecution case, it is alleged that there is 69 decimals of land in the name of the father of the informant situated in village Salaiya bearing Khata No. 269, Plot No. 926 of which all the papers are in favour of the father of the informant. It is further alleged that this petitioner along with other co-accused persons fraudulently sold 48 decimals of land of Plot No. 926 and one Jahir Khan in league with this petitioner has started proceeding under Section 144 of the Cr. P.C. When the informant came to know, thereafter, this case has been instituted. It is also alleged that this petitioner has threatened the informant with dire consequences.

At the outset, learned counsel for the petitioner submits at the bar, on the instruction of his client, that as per his information till date the process under Sections 82/83 of the Cr.P.C. have not been issued.

Learned counsel appearing on behalf of the petitioner submits that prima facie from the averments made in the F.I.R. as well as the materials brought on record predominantly the present case appears to be civil in nature. It is further submitted that, in fact, this petitioner has sold only 13 decimals of land and still 22 decimals of land is balance in the plot bearing no. 926. It is also submitted that the land, in question, belongs to a joint



family property, there is hundred of acres of land in the name of his family and all the affairs of purchasing and selling of the land is being taken care of by its caretakers. It is next submitted that this petitioner has instituted a Title Suit No. 21 of 2022 wherein this informant has been made as defendant no. 1, apart from the fact a proceedings under Section 144 Cr. P.C. has been initiated, which has come to an end. It is next submitted that, in fact, this petitioner has sold 13 decimals of land to Zaheer Khan and Asma Bibi. It is lastly submitted that whatsoever the outcome of the title suit, the same would be binding to both the parties in as much as this petitioner has no criminal antecedent.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that this petitioner in collusion with other co-accused persons have fraudulently sold 48 decimals of land of Plot No. 926, which was on the name of his father. It is also submitted that this petitioner has also indulged in threatening the informant, apart from the fact, before the learned court below, he has produced a false affidavit wrongly impersonating one Israfil Ansari as his cousin brother, which was found to be incorrect. It is further submitted that another sale deed has been executed by this petitioner with respect to the same land by the petitioner.



Learned Additional Public Prosecutor for the State though opposes the bail application but conceded this fact that the dispute appears to be civil in nature and with regard to the same land, a title suit is pending between the parties.

Having considered the submissions made on behalf of the parties and taking into account the nature of the dispute, apart from the materials brought on record, which reveals that the land, in question, is in the name of the joint family of the petitioner and there is disputes between the parties, which is yet to be decided in the title suit and there is no other allegation and this petitioner having clean antecedent, let the petitioner, above named, be released on bail, in the event of his arrest or surrender before the Court below within a period of eight weeks from today, on furnishing bail bonds of Rs. 25,000/ (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Sherghati, Gaya in connection with Sohail P. S. Case No. 18 of 2020, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure with following conditions:-

- (i) One of the bailors should be the close relative of the petitioner.



- (ii) The petitioner will co-operate in the investigation as well as in conclusion of the trial.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

(Harish Kumar, J)

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