

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2139 of 2023

Arising Out of PS. Case No.-1244 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Vikesh Malakar @ Vikash Malakar @ Viks Malakar Son Of Suresh Malakar
R/V- Sanha, P.S- Sahebpur Kamal, Dist- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Ram Udai Prasad Mehto Son of Late Doman Mehto R/V- Sanha West,
Ward no.- 11 P.S- Sahebpur Kamal, Dist- Begusarai

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 2327 of 2023

Arising Out of PS. Case No.-1244 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Abhishek Malakar @ Jappu Malakar @ Jhappu Malakar S/O Suresh Malakar
Resident Of Village- Sanha, P.S.- Sahebpur Kamal, Distt- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Ram Udai Prasad Mehto S/o Late Doman Mehto R/o Village- Sanha
West, Ward no. 11, P.S.- Sahebpur Kamal, Distt- Begusarai.

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 2139 of 2023)

For the Petitioner/s : Mr. Raja Surendra Mohan, Advocate

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

For the Informant : Mr. Sanjay Kumar Singh, Advocate

(In CRIMINAL MISCELLANEOUS No. 2327 of 2023)

For the Petitioner/s : Mr. Raja Surendra Mohan, Advocate

For the Opposite Party/s : Mr. Nirmala Kumari, APP

For the Informant : Mr. Sanjay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER



5 19-06-2023

CRIMINAL MISCELLANEOUS No.2139 of 2023

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Complaint Case No.1244C of 2021 registered for the offence under Sections 323, 341, 504, 427 and 420 of the Indian Penal Code.

The accused/petitioner is named in the Complaint Petition and is in custody since 14.09.2022.

The allegation against the petitioner is to cheat complainant for the sum of Rs.5,25,000/- (Rupees Five Lakh Twenty Five Thousand) while making a fraudulent sale of a piece of land bearing Khata No.1916, Khesra No.1590 total Rakwa-3 katha 15 dhur 10 dhurki to the complainant.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is one of the co-sharer of the land and land came into the share of petitioner out of oral partition. It is submitted that after receiving the consideration of amount of Rs.5,25,000/- (Rupees Five Lakh Twenty Five Thousand) for alleged dispute land, formal sale deed was executed in favor of the complainant. It is further pointed out that the allegation to disturbed in possession is out rightly false for the reason that it



is nowhere mentioned in the complaint petition as who objected in taking possession by complainant. It is further pointed out that present implication was raised after change of mindset as not to purchase the land in issue. While concluding the argument, it is submitted that though maximum number of witnesses have already been examined in this case but still trial is not likely to conclude in the near future. It is also submitted that dispute is purely civil in nature.

Learned APP duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer for bail submitted that prime issue is related with delivery of possession of the land but fairly conceded that petitioner is one of the co-sharer.

In view of the facts and circumstances as mentioned above admittedly petitioner is one of the co-sharer of the disputed land, where sale-deed already been executed after receiving consideration of amount of Rs.5,25,000/- (Rupees Five Lakh Twenty Five Thousand), let above named petitioner is directed to be released on bail in connection with Complaint Case No.1244C of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Learned Judicial Magistrate-1st Class,



Begusarai/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

CRIMINAL MISCELLANEOUS No. 2327 of 2023

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Complaint Case No.1244C of 2021 registered for the offence under Sections 323, 341, 504, 427 and 420 of the Indian Penal Code.

The accused/petitioner is named in the Complaint Petition and is in custody since 13.10.2022.

The allegation against the petitioner is limited only to tie *gamcha* around the neck of the complainant while complaining the matter to the petitioner as delivery of possession of the land.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is one of the co-sharer of the land and the land came into the share of petitioner out of oral partition. It is submitted that after receiving the consideration of amount of Rs.5,25,000/- (Rupees Five Lakh Twenty Five Thousand) for alleged dispute land, formal sale deed was executed in favor of the complainant. It is further pointed out that the allegation to disturbed in possession is out rightly false for the reason that it



is nowhere mentioned in the complaint petition as who objected for taking possession by complainant. It is further pointed out that present implication was raised after change of mindset as not to purchase the land in issue. While concluding the argument, it is submitted that though maximum number of witnesses have already been examined in this case but still trial is not likely to conclude in the near future. It is also submitted that dispute is purely civil in nature, allegation to tie '*gamcha*' around the neck of complainant is very superficial in nature, only to aggravate the allegation.

Learned APP duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer for bail submitted that prime issue is related with delivery of possession of land but fairly conceded that petitioner is one of the co-sharer.

In view of the facts and circumstances as mentioned above admittedly petitioner is also one of the co-sharer of the disputed land, where sale-deed already executed after receiving consideration of amount of Rs.5,25,000/- (Rupees Five Lakh Twenty Five Thousand), let above named petitioner is directed to be released on bail in connection with Complaint Case No.1244C of 2021 on furnishing bail bond of Rs.10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Learned Judicial Magistrate-1st Class, Begusarai/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

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