

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19367 of 2023

Arising Out of PS. Case No.-282 Year-2021 Thana- BUXAR District- Buxar

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1. Namo Narayan Dubey S/O Hridyanand Dubey R/O Village- Dubawali, P.S- Sikraul, Distt.- Buxar.
 2. Vipin Bihari Dubey S/O Hridyanand Dubey R/O Village- Dubawali, P.S- Sikraul, Distt.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 12-06-2023 Heard Vikarm Deo Singh, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Buxar (Town) P.S. Case No. 282 of 2021 registered for the offences punishable under Sections 419, 420, 467, 468, 471 and 120(B) of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that his son, who was mentally retarded, on being allured and threatened by the petitioners, got executed a sale deed of his land in favor of 'Mansa Devi'. It is further alleged that a huge chunk of land has been sold on a meager amount by taking the benefit of mental retardation of his son and when he approached the petitioners for cancellation of the said sale deed, he was abused and assaulted.

Learned counsel appearing on behalf of the petitioners



submits that though the allegation has been levelled that the son of the informant is mentally retarded however, during the execution of the sale deed, it has not been found by the Sub Registrar that the son of the informant was not in a fit state of mind to execute the sale deed. He further submits that the FIR though suggest that the petition for the cancellation of the sale deed has been filed but no such petition/application has been brought to the knowledge of the Investigating Officer. Further submission has been made that, even if, for the sake of argument, the allegation is accepted save and except the allurements/threatening, there is no other allegation constituting any offence as alleged in the FIR, apart from the fact that the son of the informant was a major, having good state of mind, executed the sale deed and, as such, the case is pre-dominantly civil in nature which has been given the color of criminal case only with a view to pressurize the petitioners to extort some more money from the purchaser of the land.

After some argument it has been fairly stated that one-another co-accused persons who has also named in the FIR with the similar allegation was arrested by the police and he has been granted bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 61921 of 2022 vide order dated 24.02.2023.



On the other hand, learned APP for the State vehemently opposes the pre-arrest bail application and submits that since the co-accused person has been allowed regular bail, let the petitioner be also directed to surrender and seek regular bail.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation against the petitioners and, prima facie, from the record the matter appears to be pre-dominantly civil in nature and no paper has been placed before the Investigating Officer with regard to mental retardation of the son of the informant, coupled with the fair antecedent of the petitioners, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Buxar (Town) P.S. Case No. 282 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Harish Kumar, J)

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