

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29828 of 2022

Arising Out of PS. Case No.-708 Year-2019 Thana- KOTWALI District- Patna

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Krishna Yadav @ Krishna Prasad @ Krishna Jee Prasad Yadav Son Of Kamal Prasad Resident Of Village - Sinha Library Road , B.C.Day Campus, Plot No.13, P.S.- Kotwali, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Harsh Singh

For the Opposite Party/s : Mr.Ram Bilash Roy Raman

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

6 05-04-2023 Heard learned counsel for the petitioner,

informant and learned A.P.P appearing on behalf of the

State.

The petitioner is languishing in custody in a

case registered for the offences punishable under

Sections 451, 384, 386, 506 and 34 of the Indian Penal

Code.

The accusation against the petitioner and two

others is of having forcibly entered into the house of the

informant, who is an old helpless lady. It is alleged by



the informant that informant had taken birth in the aforesaid house which was the self acquired property of her maternal grand-father. After the death of her maternal grand-father, she started residing in the same house along with her cousin namely Saugata Dey who also died leaving behind the informant. Every now and then, the informant used to visit her daughter in Pune. During one of her such trips to Pune, the lock put in the house was broken open and three persons including the petitioner are said to have entered into the said house. The property belonging to the informant is said to have been removed. One other person was also brought inside the house.

It is submitted by learned counsel for the petitioner that petitioner is innocent and he has falsely been implicated in this case. The property does not belong to the informant. The petitioner has remained in possession of the house since 1986, when petitioner's father was inducted into possession of the house by Late



Devesh Chandra Dey, the son of Late Bankim Chandra Dey, whom the informant claims to be informant's maternal grant father. It is further submitted that Late Devesh Chandra Dey was issue-less and as such entered into an agreement for sale vide deed dated 08.10.1986 with petitioner's father and petitioner for executing transfer of lease hold right on the *khas-mahal* property for a sum of rupees 30 lacs, out of which rupees 4 lacs 50 thousands were paid to Late Devesh Chandra Dey as token consideration for the agreement. The aforesaid deed clearly stated about the vendees i.e. petitioner's father and petitioner being put into possession. As such petitioner's possession of the house could neither be said to be unlawful nor forceful, much less a criminal occupation. The petitioner has been continuously residing in that house for the last thirty five years. It is further submitted that a false claim to the property has been staked by the informant which becomes evident from her first complaint before the Mahila Help Line in which the



name of the petitioner does not find mention. Apart from this, it has been submitted that a representation was also filed by the petitioner before the Senior Superintendent of Police indicating that in view of the false claim of the informant over the house which is located in a very posh area of the city, he has been made accused in this case without any reason. The electricity bills of the premises are generated in the name of the petitioner for which payments are being made from time to time by the petitioner. Moreover, it is purely a civil nature of dispute for which proper remedy is available at the appropriate forum. The petitioner is languishing in custody since 07.03.2022. A statement has been made in para 3 of the petition that petitioner has no criminal antecedent.

Learned counsel appearing on behalf of the informant and learned A.P.P. appearing on behalf of the State have vehemently opposed the prayer for bail of the petitioner and submitted that petitioner is an



unauthorized occupier of the house and even if the issue with respect to the ownership of the property in question is under dispute, it would be a civil dispute with the informant who is claiming her ownership over the land on the basis of inheritance and somebody else of the family who may turn up and seek the ownership. The petitioner is neither tenant nor has he purchased any part of the property. The petitioner has given misleading, incorrect and fabricated submissions that he is *bona fide* resident of the premises in question from his childhood showing one fabricated and forged concocted agreement of sale deed dated 08.10.1986 wherein the forged deed of agreement for sale of lease hold right, which is *khas-mahal* property wherein he has forged the signature of Devesh Chandra Day on 5th page of the said document, significantly, the rest of the pages i.e. 1, 2, 3, 4 do not bear any signature in which he has tried to show that he gave Rs. 4,50,000/- to the owner of the said house by way of advance out of 30 lakhs. Such



agreement contains one rupee revenue ticket. It could not be possible that huge amount of cash money has been given on one rupee revenue ticket, therefore, it is a forged document and the petitioner cannot be given any preference in support of his claim.

Considering the facts aforesaid and the period under custody, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate III, Patna Sadar, Patna in connection with Kotwali P.S. Case No. 708 of 2019.

(Sunil Kumar Panwar, J)

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