

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41494 of 2023

Arising Out of PS. Case No.-408 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

1. BYAS DEV DUBEY @ BYASDEV DUBEY @ BYAS DUBEY SON OF BHABHUTAN DUBEY RESIDENT OF VILLAGE - GOPALPUR, MATEYA KHAS, P.S. - KUCHAIKOT, DISTRICT GOPALGANJ, BIHAR
2. BASANT DUBEY @ BASANT DUBE SON OF BYAS DEV DUBEY @ BYASDEV DUBEY @ BYAS DUBE RESIDENT OF VILLAGE - GOPALPUR, MATEYA KHAS, P.S. - KUCHAIKOT, DISTRICT GOPALGANJ, BIHAR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR , PATNA
2. RUKHSANA KHATOON WIFE OF MUHAMMAD MUZZAFFAR ALAM RESIDENT OF VILLAGE - RAMGADHWA, P.S. KUCHAIKOT, DISTRICT - GOPALGANJ

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devashish Giri, Adv.
For the Opposite Party/s : Mr.Umanath Mishra, APP.
Mr. Dhananjay Kumar Upadhyay, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 05-10-2023 Heard learned counsels for the parties.

2. The petitioners apprehend their arrest in connection with Kuchaikote P.S. Case No. 408 of 2022 registered for the offences punishable under Sections 147, 323, 341, 379, 419, 420, 406, 467, 465, 468/34 of the Indian Penal Code pending in the Court of learned Chief Judicial Magistrate, Gopalganj.

3. The prosecution case, in brief, is that the informant and her husband told co-accused Shriram Prasad that they wanted to buy one *katha* land upon which Shriram Prasad told them that



he had one *katha* land whose owner is petitioner no.1 and took them on the said land where they met petitioner no.1 who told them that the said land belongs to him. It is further alleged that petitioner no.1 took an amount of Rs. 6,50,000/- from the complainant and executed the sale deed in favour of the complainant, but when she along with her husband reached on the said land to construct a house upon it, the co-agnates of the petitioners stopped and told them that the said land belong to them and they have sold it on 06.12.2020. Thereafter, a panchayati was also held but the accused persons denied all the allegations levelled against them.

4. It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have committed no offence. No such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case due to ulterior motive. The allegation levelled against the petitioner no.2 is not specific rather general and omnibus in nature. There is admitted land dispute between the parties. As per the allegation made in the FIR, it seems that the said land has deliberately been sold by petitioner no.1's cognates in 2020 despite knowing the fact that the said land was sold by petitioner no.1 to the informant which shows that petitioner



no1. has not committed any offence. Petitioners have no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State as well as learned counsel for the complainant opposes the prayer for bail and submits that both the petitioners were involved in the forgery.

6. Considering the arguments of the parties as well as nature of the offence, I am not inclined to enlarge the petitioners on anticipatory bail.

7. The prayer for anticipatory bail of the petitioners is hereby rejected.

8. However, if the petitioners surrender before the learned Court below within six weeks from today and seek regular bail, the learned Court below shall pass order on the same day in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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