

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48150 of 2023

Arising Out of PS. Case No.-644 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. RATAN KUMAR CHOUDHARY@RATAN CHOUDHARY @ RATAN KUMAR JAYASAWAL SON OF LATE RAM NARAYAN CHOUDHARY R/O VILL- HASANPUR SURAT, PS- PATORI, DISTT- SAMASTIPUR
 2. BHASKAR KALYANI SON OF OM PRAKASH KALYANI R/O VILL- HASANPUR SURAT, PS- PATORI, DISTT- SAMASTIPUR

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Manish Kumar, son of Ratan Kumar Choudhary @ Ratan Choudhary @ Ratan Kumar Jayasawal, resident of village Hasanpur Surat, P.S. Patori, District Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Bijay Bhushan Prasad, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP
For the O.P. No.2	:	Mr. Mithilesh Kumar Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 12-12-2023 Heard Mr. N.K. Agrawal, learned senior counsel assisted by Mr. Bijay Bhushan Prasad, learned Advocate for the petitioners and Mr. Nirmal Kumar Sinha, learned A.P.P. for the State assisted by Mr. Mithilesh Kumar Rai, learned counsel for the opposite party no.2.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 323, 420 and 504/34 of the Indian Penal Code.

3. The allegation against the petitioners, in short, is that petitioner no.1 with the help of other accused persons



mortgaged the land and house of the opposite party no.2 which came in share of his mother to the Indian Bank and after creating forged document have got the financial assistance of Rs.23 lacs in which petitioner no.2 is the guarantor. Other allegations have also been made.

4. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case due to land dispute. Petitioner no.1 is the father of opposite party no.2. It is further submitted that from perusal of the complaint petition, it is evident that there is land dispute between the father and son and for that litigation is pending between the parties. It is further submitted that out of family dispute some settlement was also arrived and in the year 2006 the matter was sent to Lok Adalat and land in question came in share of the petitioner no.1 and he is paying rent to the State of Bihar and in lieu thereof the petitioner no.1 is also getting rent receipt. It is further submitted that when petitioner no.1 came to know that the opposite party no.2 has created a forged document, then he filed a Title Suit No.43 of 2022, which is pending. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. Petitioners have no criminal



antecedent as mentioned in para-3 of this application.

5. Learned APP for the State assisted by learned counsel for the opposite party no.2 opposed the prayer for bail. Learned counsel for the opposite party no.2 submitted that opposite party no.2 got his share in the ancestral property from his siblings and cousins through amicable settlement through the Lok Adalat in the year 2006. It is further submitted that petitioner no.1 has all ill habits and even involved in illicit relationship with his daughter-in-law, who is wife of his one son, namely, Amit Kumar. It is further submitted that due to family feud, the opposite party no.2 had filed a Civil Partition Suit No.3 of 2008 and the same was compromised and the petitioner no.1 in violation of the decree passed in Civil Partition Suit No.3 of 2008 has mortgaged the home in the Indian Bank for getting Rs.23 lacs as loan. It is lastly submitted that petitioner has created forged document with respect to the family property and he used to claim title over the same illegally. Hence, the petitioners do not deserve bail.

6. Having regard to the facts and circumstances of the case as well as the fact that the dispute *inter se* is family partition dispute, which is civil in nature, for which civil cases are going on, 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 six weeks from today, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with Complaint Case No.644 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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