

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64069 of 2022

Arising Out of PS. Case No.-183 Year-2021 Thana- VISHNUPAD District- Gaya

1. GOPAL PRASAD S/O Late Ram Prasad R/O Mohalla- Vishnupad Road, Karsilli, P.S- Vishnupad, District- Gaya
2. Akash Raja S/O Gopal Prasad R/O Mohalla- Vishnupad Road, Karsilli, P.S- Vishnupad, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. Satya Veer, Advocate
For the Opposite Party/s	:	Mr. Anil Kumar Singh No. 1
For the Informant	:	Mr. Ashar Mustafa, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 12-07-2023 Heard learned Senior counsel for the petitioners,
learned counsel for the informant and learned APP for the State.

The petitioners seek bail in anticipation of their arrest in connection with Vishnupad P.S. Case No. 183 of 2021 registered for the offences punishable under Sections 406, 420, 506 and 120(B) of the Indian Penal Code.

Learned Seniors counsel for the petitioners submits that the petitioners have antecedent of two cases each. It is next submitted that the petitioners, being father and son, have been falsely implicated by the informant, who is *bhabhi* of petitioner no.1. It is next submitted that the informant alleges that her personal property bearing Khata No.75, Khesra Nos.35, 36, area 30 decimals having *Jamabandi* No.168, Mauza- Ghughari Tand,



Ward No.45 was purchased in the Year 1965 *vide* Sale Deed No.3048 by her husband and thereafter, she is in continued possession of the land in question. Further, after the death of her husband Ganpat Prasad, she is the only legal heir in government records and revenue receipt is issued in the name of her nominees, Raj Kumar and Vijay Kumar. It is next alleged that recently the informant came to know that the petitioners along with other accused persons fraudulently sold the land in question by registering sale deeds.

The learned Senior counsel for the petitioners submits that petitioners have been falsely implicated in the present case. It is next submitted that the land in question is a personal property of the petitioners and petitioners and the informant are close relatives. It is further submitted that husband of the informant (Late Ganpat Prasad) was son of Laxman Prasad and petitioner no.1, Gopal Prasad is son of Ram Prasad, who was own brother of Laxman Prasad. It is next submitted that Ganpat Prasad died issueless and the property in question, after the death of Ram Prasad and Laxman Prasad, came in possession of petitioner no.1 and Ganpat Prasad. It is next submitted that since the property was in jointness, as such, the petitioner no.1 executed sale deed in favour of the purchaser. It is further submitted that a Title Suit has been preferred by the informant



for seeking cancellation of the sale deed before a court of competent jurisdiction, it is thus submitted that the dispute is purely civil and no criminal offence is made made.

The learned A.P.P. for the State and the learned counsel for the informant vehemently oppose the anticipatory bail application of the petitioners and the learned counsel for the informant submits that though at the first blush, the case appears to be of a civil nature but then, in view of the admitted facts, it would manifest that the offence was completely criminal. It is next submitted that the informant is an 83 years old widow and is wife of Late Ganpat Prasad. It is next submitted that Laxman Prasad and Ram Prasad were own brothers. It is also submitted that Ganpat Prasad had purchased the land in question by a sale deed in the Year 1965, as such, the land in question was his personal property and since he died issueless hence the property reverted on the informant and subsequently, the land came in the share of the informant, Raj Kumar and Vijay Kumar, who are sons of Late Ramkeshwar Prasad, own brother of Ganpat Prasad.

The learned counsel for the informant next submits that in the year 2001, the petitioners fraudulently got the land in question mutated in their favour, the same was challenged before the Collector of the District in Mutation Revision Case No.53 of 2021. It is next submitted that the Collector of the District, after



hearing the parties, came to a considered conclusion that the mutation in favour of the petitioners, was illegal and thus, the order of mutation was set aside and the land thus was mutated in the name of the informant. It is next submitted that thereafter in the year 2013, rent with respect to the land was also fixed but when the rent fixation was proceeding, the petitioners contested, but their claim was rejected and ultimately the rent was fixed in the name of the informant.

The learned counsel for the informant thus submits that the informant, being a widow, has been contesting the case since 2001 and the matter came to an end in the year 2008, when the Collector decided the Mutation Revision Case, which in absence of challenge attained finality. It is further submitted that in the year 2018, one Title Suit was filed being Title Suit No.553 of 2018 instituted by the informant and others against petitioner no.1 and others. It is next submitted that in the said Title Suit, the land in question was not a subject matter. It is further submitted that in the year 2021, the petitioners despite being aware that the Collector has decided the Mutation Revision Case in favour of the informant and in absence of the challenge, the order attained finality and even the rent was fixed in her favour, still they executed two sale deeds in favour of the purchasers. Learned counsel next submits that even the purchaser later realising that



they have been cheated instituted Vishnupad P.S. Case No. 103 of 2022 against the petitioners which amply demonstrates that the petitioners had cheated the purchaser of the land in question. Learned counsel next submits that informant has filed a Title Suit No. 84 of 2022 seeking cancellation of the sale deed executed in favour of the purchaser by the petitioners. It is next submitted that in the year 2021, the petitioners despite being aware that mutation revision was allowed by the Collector and in absence of challenge had attained finality still got a *Jamabandi* opened on the portal and based on that executed the sale deed in question.

Considering the submissions made by the learned counsel for the informant, the Court is not inclined to extend the privilege of anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioners is thus rejected.

(Satyavrat Verma, J)

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