

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8333 of 2023

Arising Out of PS. Case No.-354 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Vijay Sah Son of Chandradeo Sah
 2. Ranjit Pd. Yadav Son of Ram Babu Prasad Yadav
 3. Raju Kumar @ Raju Yadav Son of Ram Babu Prasad Yadav
 4. Harendra Yadav @ Dhrendra Rai Son of Manager Rai
 5. Kundan Kumar Son of Mahadev Thakur
 6. Rajeshwar Prasad Son of Banka Sah
 7. Banka Sah @ Binka Sah Son of Baldeo Sah
 8. Ramesh Kumar Sah Son of Rajeshwar Prasad
All resident of Vill.- Salemur, P.S.- Piprakothi, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilkash Khan, Advocate
For the Opposite Party/s : Mr.Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 19-05-2023 Heard learned counsel for the petitioners and the
learned APP for the State.

2. Ms. Mallika Mazumdar, learned counsel appearing on behalf of the petitioners informs this Court that during the pendency of the present bail application, petitioner no.5 (Kundan Kumar) has been arrested. Considering the statement made on behalf of the learned counsel, the prayer for anticipatory bail in respect to petitioner no.5 (Kundan Kumar) is dismissed as withdrawn.



3. So far as petitioner no.1 to 4 and 6 to 8 are concerned, they seek pre-arrest bail in connection with Muffasil P.S.Case No.354/2019, G.R.No.5899/2019, registered for the offences punishable under Sections 420, 467 & 468/ 34 of the Indian Penal Code.

4. Prosecution story, in brief, is that ancestor of petitioner no.1 had sold the land in question to one Vishambhar Tiwary and from Vishambhar Tiwary, the mother of the informant purchased the said land bearing Khata No.143, Khesra No.1166, 1167, total area measuring 05 katha. Subsequently the informant came in possession of the said land.

5. The learned counsel appearing on behalf of the petitioners submits that the petitioner no.1 was in possession of the said land since long and he sold his ancestral land to one Ram Babu Yadav and said Ram Babu Yadav is in possession of the land. The informant has lodged the present case with ulterior motive just because the nature of land has now changed. Land is located near the National Highway. Learned counsel further submits that instead of filing suit, the informant with intention to put undue pressure on the petitioners has lodged the present case. On earlier occasions also, the informant had lodged following cases relating to the said piece of land :



- i. Muffasil P.S.Case No.6 of 2009,
- ii. Muffasil P.S.Case No.4 of 2017,
- iii. Muffasil P.S.Case No.271 of 2019,
- iv. Muffasil P.S.Case No.284 of 2019,
- v. Muffasil P.S.Case No.310 of 2019 and
- vi. Muffasil P.S.Case No.311 of 2019.

6. Learned counsel further submits that the informant by forging the land records at circle office along with the Circle Officer and other revenue authorities has got registered the revenue receipt relating to the aforesaid land in favour of Nirmala Devi, who is mother of the informant.

7. The informant is represented by Mr. Karandeep Kumar, Advocate. He submits that the original land holder of the land bearing Khata No.143, Khesra No.1166, 1167, total area measuring 5 katha situated in Village Chandrihiya, District East Champaran, which was executed by the ancestor of petitioner no.1, namely, Gorakh Das, is described in the First Information Report,

8. It is admitted that the petitioners' side have dispossessed the informant, even though the informant was in possession of the land since 1999.

9. Learned APP for the State has supported the statement of the informant, however, he submits that the dispute between the parties is civil in nature.

10. Having considered the rival submissions made by



the learned counsels on behalf of their respective parties, nature of accusation made in the FIR, primarily relates to land dispute relating to Khata No.143, Khesra No.1166, 1167 situated in village Chandrihiya total area measuring 05 katha. It is admitted that the original land lord was ancestor of petitioner no.1 and the petitioner no.1 sold the said land to one Ram Babu Prasad Yadav. The said Ram Babu Prasad Yadav along with the petitioners' side tried to dispossess the informant from the said piece of land, which was in his peaceful possession. The record reveals that both the parties have resorted to lodge case and counter case against each other in the past to claim their right over the said disputed plot. Description of the cases are mentioned in paragraph no.10 of the bail application. I am of the opinion that primarily the allegation made in the FIR is with respect to a piece of land, which is claimed by the respective parties and only recourse is to avail civil remedy of either cancellation of said deed or to file a title suit before the competent court. The petitioner nos. 1 to 4 and 6 to 8 are directed to be released on pre-arrest bail, in the event of their arrest or surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the



satisfaction of learned C.J.M., East Champaran, Motihari in connection with Muffasil P.S. Case No.354/2019, G.R.No.5898/2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. Further condition that the above named petitioners will make their attendance before their local police station every week on Tuesday in the following manner :

- I. Petitioner no.1 at 9:00 A.M.
- II. Petitioner no.2 at 10:00 A.M.
- III. Petitioner No.3 at 11:00 A.M.
- IV. Petitioner No.4 at 12:00 noon
- V. Petitioner no.6 at 3:00 P.M.
- VI. Petitioner nos.7 & 8 at 4:00 P.M.

11. The concerned SHO of the police station is directed to submit monthly attendance report before the concerned Superintendent of Police.

12. Further the learned court below is directed to verify the criminal antecedent of the petitioners and if it is found that the petitioners are involved in some other cases as what has been stated in paragraph No.3 of the bail application, this order will automatically lose its force .

(Purnendu Singh, J)

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