

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5340 of 2022

Arising Out of PS. Case No.-1628 Year-2018 Thana- COMPLAINT CASE District- Araria

1. Md. Maskur @ Maskur Alam, age-38 years, Male, Son of - Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
2. Md Faiyaz Aalam @ Md Faiyaz Alam, age-35 years, Male, Son of - Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
3. Md Aaftab Aalam @ Aftab, age-27 years, Male, Son of - Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
4. Md Mumtaz Alam @ Mumtaz Alam, age-25 years, Male, Son of Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
5. Bibi Sanowar Khatoon @ Bibi Sanowar, age-41 years, Female, Wife of- Nayeemuddin, D/o Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
6. Bibi Rizwana Khatoon, age-29 years, Female, Wife of - Ashfaque Alam, D/o- Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
7. Bibi Aafsana, age-28 years, Female, Wife of - Akhalaque, D/o- Late Khurshid Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.

... .. Petitioners

Versus

1. The State of Bihar.
2. Bibi Zinat Perween, age-45 years, Female, Wife of - Md Masud Alam, Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Md. Ziaul Quamar, Advocate
For the State	:	Mr. Umesh Lal Verma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 01-02-2024 Learned counsel for the petitioners is permitted to

remove the defect(s), as pointed out by the office, if any,

within a period of three weeks from today.



2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in connection with Complaint Case No. 1628-C/2018 registered for the offences punishable under Sections 420, 406, 120B of the I.P.C. in which cognizance has been taken under Section 420 of the I.P.C.

4. As per the prosecution case, on 27.05.2018, the petitioners and the co-accused executed a Sale Deed No. 2764 dated 27.05.2008 in the name of the complainant, namely, Bibi Zinat Perween. It is further alleged that the accused persons have not executed 32 decimals of land with an intention of cheating. The actual area of Plot No. 14, Khata No. 149 is only 9 decimals, Plot No. 179 is not in the name of the executors of the sale deed but the petitioners executed 41 decimals of land in the name of the complainant. During execution of the said sale deed, the petitioners executed Plot No. 179 instead of Plot No. 189 under Khata No. 149 and knowingly left the Plot No. 187, 188 under Khata No. 151. The petitioners promised to execute again but they have denied.



5. Learned counsel for the petitioners has submitted that the petitioners are innocent and have been falsely implicated in this case. The complainant's husband is own uncle of the petitioners and there is ancestral land dispute between the parties. The father of the petitioners had already died and their mother had taken money from the complainant's husband (Dewar) for care of her children. It is further submitted that in the year 2008, the complainant's husband prepared a sale deed of 89 decimals of land including the petitioners and three others and the petitioners registered sale deed on 27.05.2008. From perusal of the sale deed, it appears that the complainant's husband, namely, Masud Alam is witness to the sale deed. It is further submitted that the occurrence took place on 27.05.2008 and the complaint has been filed on 19.07.2018 after a lapse of ten years for which no explanation has been given by the prosecution. It is case of civil dispute. The petitioners have clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioners.



7. Considering the aforesaid facts and circumstances of the case, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Araria, in connection with Complaint Case No. 1628-C/2018, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(I) The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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