

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26537 of 2024

Arising Out of PS. Case No.-380 Year-2022 Thana- COMPLAINT CASE District- Araria

1. SALLAHAUDDIN SON OF LATE SHIEKH RASUL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
2. JAHIR SON OF LATE SHIEKH RASUL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
3. MD. SARAFAT SON OF LATE SHIEKH RASUL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
4. BIBI NAJISUN @ BIBI NAJESHUN WIFE OF MD. SALIM, DAUGHTER OF LATE SHIEKH RASUL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
5. RAJIYA WIFE OF OHAD, DAUGHTER OF LATE SHIEKH RASUL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
6. MD. JUMAR SON OF LATE JALIL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
7. MD. TAIYAB SON OF LATE JALIL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
8. MD. UMAR SON OF LATE JALIL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
9. MD. HASIM SON OF LATE JALIL RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA
10. KASIM SON OF LATE TAHIR RESIDENT OF VILLAGE - KAMALDAHA, WARD NO.03, POLICE STATION - KURSAKANTA, DISTRICT - ARARIA

... .. Petitioner/s

Versus

1. The State of Bihar
2. TAJMMUL @ TAJMUL SON OF LATE RASID RESIDENT OF CHHOTI GARGADDI WARD NO. 01, PANCHAYAT - BASBARI, P.S. - ARARIA, DISTRICT - ARARIA

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Kumar Rajdeep, Advocate
		Mr. Arvind Kumar, Advocate



For the Opposite Party/s : Mr. Brajendra Nath Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 23-07-2024 1. Heard learned Senior Counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing on behalf of the complainant.
2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 471, 420, 467, 468 120(B)/34 of the Indian Penal Code.
3. Learned Senior Counsel for the petitioners submits that petitioners are persons with clean antecedent. It is further submitted that from perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is next submitted that as per the allegation as alleged in the complaint by the complainant is that one Ghotan @ Chhotan had three sons, namely, Sheikh Sareed, Sheikh Rasool and Sheikh Jalil. Sheikh Rasool and Sheikh Jalik died issueless as such complainant being grandson of Ghotan @ Chhotan was the sole legal heir with respect to the land in dispute. Further, the accused persons sold the land to Rahmati by a sale deed dated 03.05.2021. Further, they sold the land portraying themselves as son of Rasul and Jalil.



4. Learned Senior Counsel for the petitioners submits that the case of the complainant is that being grandson of Ghotan he is the sole claimant of the property in question when the fact is that there are two Ghotans i.e. Ghotan from Gargadi whose sons were Sarid and Farid and another one was Ghotan @ Chithru whose sons were Rasul and Jalil. Further, Rasul had three sons and two daughters i.e. accused no. 1 to 5 of the complaint case and Jalil had four sons i.e. accused no. 6 to 10 of the complaint case. It is further submitted that petitioners being from the branch of Ghotan @ Chithru sold the land in question to Rahmati which pertained to their share while complainant belongs to the family of Ghotan from Gargadi with whom they have no relation. It is next submitted that if what has been alleged in the complaint is true, the same can only be adjudicated by a court of competent civil court.

5. Learned A.P.P. for the State and learned counsel appearing on behalf of the complainant opposed the prayer for anticipatory bail of the petitioners but then are not in a position to rebut the submissions of the learned Senior Counsel that the dispute manifestly appears to be civil in nature to which a criminal colour has been given.

6. Considering the submissions made by the learned



Senior Counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Araria Complaint Case No. 380 of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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