

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22262 of 2024

Arising Out of PS. Case No.-259 Year-2023 Thana- GOVINDGANJ District- East
Champan

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Gopi Nath Sah @ Gopi Nath Pandey S/o Raghu Nath Sah @ Yamuna Pandey
R/o Vill at present - Jagdishpur, P.S. - Jagdishpur, Dist. - West Champaran.
Permanent Address, R/o Vill - Jogiyar @ Janerwa (Hardiya), P.S. -
Govindgunj, O.P. - Areraj, Dist. - East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Kant Pandey S/o Late Bharat Pandey R/o vill - Jogiyar @ Janerava
(Hardia) P.S. - Areraj O.P. Govindganj), Distt - East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Adv.
For the Opposite Party/s : Mr. Rajendra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 26-06-2024 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the opposite party no.2.

2. The petitioner is apprehending arrest in connection
with Govindganj(Areraj) P.S. Case No. 259 of 2023 lodged on
05.05.2023 for the offences punishable under Sections 406, 420,
467, 468, 471, 504, 506, 120(b), 34 of the Indian Penal Code.

3. As per the prosecution, FIR has been lodged against
six named accused persons including the present petitioner. The
allegation against the present petitioner is that he has sold the



land by different sale deeds and the said Gopi Nath Pandey is not in existence as he is Gopi Nath Sah and not son of Yamuna Pandey. It has been alleged that by way of making false representation about himself that he is Gopi Nath Pandey, the said Gopi Nath Sah is selling the land continuously. It has also been alleged in the FIR that the entire sale is being done through a syndicate who is involved in selling of the lands illegally which belongs to the informant's family.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel also submits that genealogy of the family has been annexed as Annexure-P/2 and from the said genealogy, it becomes crystal clear that the informant and Gopi Nath Pandey belongs to the same common ancestors. Ram Pragas Pandey has two sons namely Yamuna Pandey and Ram Ayodhya Pandey. Gopi Nath Pandey is the son of Yamuna Pandey, whereas, the present informant is the grand son of Ram Ayodhya Pandey. In support of his genealogy and contention, counsel for the petitioner submits that the said question about the existence and substitution of Gopi Nath Pandey has already been tested by this Hon'ble Court in Civil Writ Jurisdiction Case No.1817 of 2011 in which *vide* order dated 03.09.2015, the writ petition filed by



the present informant was dismissed and Gopi Nath Pandey who is the present petitioner in this case has been shown as respondent no.11 in the writ petition. Counsel further submits that it is true that Title Suit No.237 of 1976 was filed in which Gopi Nath Pandey and Srikant Pandey both were parties. Counsel submits that for the sake of argument, even if it has been accepted that the sale deed is false, then only the present petitioner is not a non-existent person particularly after order passed by this Hon'ble Court about his existence being respondent no.11. Counsel further submits that the remedy lies to the petitioner by way of filing the Title suit for cancellation of the sale deed particularly when the petitioner has been recognized person from this Hon'ble Court in the writ petition which is annexed as Annexure-3. Counsel submits that the criminal antecedent of the petitioner is clean and with a view to create undue pressure upon the petitioner, the present case has been filed by a litigant family member namely Srikant Pandey who was the petitioner in the writ petition as well as the informant in the FIR.

5. Learned APP for the State opposes the prayer for bail of the petitioner.

6. Learned counsel for opposite party no.2



vehemently opposes the prayer for bail of the petitioner and submits that a syndicate is being run by one Kunal Pandey and the petitioner is not the Gopi Nath Pandey, rather, he is Gopi Nath Sah and in connivance with the land grabber team of the locality, the land is being sold and therefore, bail may not be granted to the present petitioner as he is a complete fraud in this case and he is the kingpin as he has sold the land by changing his name and therefore, the petitioner may not be granted anticipatory bail.

7. After hearing the submissions made by the parties, it transpires to this Court that the said Gopi Nath Pandey is not a non-existing person particularly when this Hon'ble Court in C.W.J.C. No.1817 of 2011 has decided some of the issues of civil litigation in which the informant Srikant Pandey and the petitioner both were the parties as petitioner and respondent no.11.

8. As such, considering the aforesaid facts and circumstances, let the above named petitioner be released on bail, in the event of arrest or surrender before the learned Court below within a period of 4 weeks from today, on furnishing bail bond of Rs.30,000/- (thirty thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial



Magistrate, Motihari, East Champaran in connection with
Govindganj(Areraj) P.S. Case No. 259 of 2023, subject to the
conditions as laid down under Section 438(2) Cr.P.C.

(Dr. Anshuman, J)

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