

Arising Out of PS. Case No.-31 Year-2024 Thana- GANDHIMAIDAN District- Patna

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Rakesh Kumar @ Vinayak Son of Late Devraj Singh R/O Mohalla- Sakaldev
Rai Chowk, Ealhibagh, P.S.- Gopalpur, Dist.- Patna, Bihar, Pin-800007

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rohit Mishra
For the Opposite Party/s : Ms.Anita Kumari, APP
Mr. Pramod Rajpati, Adv

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 25-09-2024 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel appearing on behalf of
the informant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 467, 468, 471, 379, 420, 406 and 120(B) of the Indian Penal Code.

3. The learned counsel for the petitioner submits that petitioner has antecedent of one case and the informant alleges that he along with his brother Rajesh Prasad entered into an agreement for sale with Rakesh Kumar @ Vinayak (Petitioner) on 21-2-2022 for selling 12 katthas of land pertaining to Khata No. 96, Khesra No. 31, further Vinayak introduced the informant to Nandan Kumar and said that the land would



registered in name of Nandan, further Nandan called the informant and his brother to the Registry Office on 19-12-2022 and got the sale deed prepared in haste, thereafter the sale deed was to be executed by the informant and his brother along with other co-sharers, who were not present in the Registry Office, but Nandan showing urgency got the sale deed signed by the informant and his brother only and got their photographs clicked and asked the informant to bring all the co-sharers on 20-12-2022 for signing the sale deed, but when the informant reached the Registry Office on 20-12-2022, he came to know that sale deed has already been executed in connivance with the officials of the Registry Office and further alleges that Nandan sent a copy of the sale deed on WhatsApp of the informant's nephew and from perusal of the same, it manifests that the land for which the agreement for sale was entered, was sold, but later the informant came to know that a fraudulent sale deed was sent on WhatsApp, whereas in the sale deed executed on 19-12-2022, even the land pertaining to Khata No. 41, Khesra No. 213, were also shown to be sold for which no agreement for sale was entered. It is further alleged that from perusal of the sale deed sent on the WhatsApp of the nephew of the informant, it transpired that some pages were manipulated.



4. The learned counsel appearing on behalf of the petitioner submits that from perusal of the allegation as alleged in the FIR, it would manifest that the dispute is purely civil to which a criminal color has been given. It is also submitted that the informant and his brother, after taking the entire consideration, executed the sale deed and later, by way of afterthought, instituted the instant FIR with an allegation that there were other co-sharers who were also required to sign the sale deed. It is also submitted that since sale has been completed, in that event, if the informant is aggrieved by execution of the sale deed on any ground, in that event, he has a remedy of approaching a court of competent civil jurisdiction for getting the sale deed cancelled. It is also submitted that no doubt the agreement for sale was entered in between the petitioner and the informant on 21-2-2022, but then it was decided that the land would be registered in the name of Nandan, and the informant and his brother executed the sale deed as recorded hereinabove.

5. The learned counsel appearing on behalf of the informant as well as the learned APP submits that the case is not as simple as it has been made out to be. It is also submitted that from perusal of the allegation as alleged in the FIR, it would



manifest that tampering with the sale deed is also alleged, which was sent on WhatsApp of the nephew of the informant. It is next submitted that the price of the land in the state of Bihar has skyrocketed as such the land grabbers are indulging in such activities. It is next submitted that investigation of the case is in its nascent stages and in the event if privilege of anticipatory bail is granted to the petitioner, in that event, the petitioner may abscond or try to tamper with the evidence, on which the learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond rather will cooperate in the investigation.

6. At this stage, the learned counsel appearing on behalf of the informant submits that when the case was taken up on 4-9-2024, a specific submission was made that a counter affidavit has been filed in the instant criminal miscellaneous, wherein a specific pleading has been made that petitioner by changing the page of the FIR has approached this court seeking anticipatory bail, on which the learned counsel appearing on behalf of the petitioner had sought time for filing a reply.

7. When the case was taken up on 4-9-2024 and the said submission was made that the anticipatory bail application has been filed by changing the page of the FIR, the Court took it



very seriously and granted time to the learned counsel appearing on behalf of the petitioner to file his reply.

8. Today when the case is taken up, the learned counsel appearing on behalf of the petitioner submits that from perusal of annexure-1 to the anticipatory bail application, i.e., the FIR, it would manifest that altogether 46 pages of the FIR have been annexed. It is also submitted that few pages after page 30 are not in seriatim, but then the mistake was caused inadvertently.

9. The learned counsel appearing on behalf of the petitioner thereafter draws the attention of the court to para-3 of the counter-affidavit filed on behalf of the informant, wherein it has been pleaded – *That the petitioner has not come before this Hon'ble Court as a clean hand. The petitioner by cheating, misleading, manipulating and suppressing the real facts annexed the FIR in the main bail petition filed by the petitioner and his counsel. On perusal of the F.I.R. found that page of the F.I.R. deliberately moved back and forth by the petitioner, so that the bail order can be snatched from this Hon'ble Patna High Court, on the basis of suppressing the real facts and materials of the court records. In the circumstances may kindly take the appropriate action against the petitioner u/s 379 of*



Bhartiya Nagarik Suraksha Sanhita, 2023. The total pages in the present FIR is 46 and the petitioner and his counsel has filed 45 pages of F.I.R in the present main bail petition.

10. The learned counsel submits that it appears that the learned counsel appearing on behalf of the OP No. 2 in his zeal to get the bail of the petitioner rejected has made irrelevant pleading even without bothering to verify from the original records that as to whether 46 pages of the FIR are there or not in the records of the Court. It is also submitted that at the outset it was shown to the court that altogether 46 pages of the FIR have been annexed but then some page after page-30 are not in seriatim but then it cannot be presumed that the pages in seriatim was not placed for some ulterior reason. It is also submitted that learned counsel appearing on behalf of the OP No. 2 in a way has cast aspersion on the learned lawyer appearing on behalf of the petitioner when he was aware that Nandan Kumar has been granted the privilege of anticipatory bail by an order dated 9-8-2024 in Cr. Misc No. 41380 of 2024 and the case of the petitioner is on a better footing but still the learned counsel appearing on behalf of the OP No. 2 for reasons best known was harping on a fact which was not a fact, which amply demonstrates that for some ulterior reason, a false



submission was made before the Court on 4-9-2024.

11. Be that as it may, since Nandan Kumar has been granted the privilege of anticipatory bail by an order dated 9-8-2024 in Cr. Misc No. 41380 of 2024 with certain conditions, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Gandhi Maidan P. S. Case No. 31 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

12. One of the bailors of the petitioner shall be his wife, Divya Singh.

13. However, it is made clear that in the event, if any application is filed by the Investigating Officer before the learned trial Court bringing to its notice that petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

14. Further, it is made clear that in the event, if charge-



sheet is filed connecting the petitioner with the offence in that event, the present anticipatory bail order shall lose its effect.

15. Let a copy of this order be sent to the concerned Police Station through the learned trial Court.

(Satyavrat Verma, J)

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