

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71132 of 2023

Arising Out of PS. Case No.-2202 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

-
-
1. KAMESHWAR RAI S/o- LATE JAGAN RAI Village- Gaurichak Ps- Gaurichak Dist- patna
 2. Lala Rai son of Kameshwar Rai Village- Gaurichak Ps- Gaurichak Dist- patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ajeet Kumar Pandey son of Late Parmeshwar Pandey R/o- Locality Dujra Pahalwan Ghat Gate No-13, Ps- Buddha Colony Dist- patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar
For the Opposite Party/s : Mr.Madhuri Lata

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

8 05-08-2024 I have already heard the learned counsel for the petitioners and learned APP for the State, assisted by the learned counsel for the complainant.

2. This is an application anticipatory bail on behalf of the petitioners for the offences alleged under Sections 307, 354, 406, 420, 423, 467, 468, 471, 506 and 120(B)/34 of the Indian Penal Code and Section 25 of the Arms Act, registered in connection with Complaint Case No. 2202 of (c)/ 2020.

3. The case, in brief, is that the complainant claims



himself to be the owner of 09 decimal of land, appertaining to khata no. 83, plot no. 111 in Dujra, Buddha Colony, Patna. He was residing over there with his family. The accused persons, including the petitioners, after trespassing his house, took away the materials kept for construction of the house. The accused persons also demanded a ransom of Rs. 5,00,000/- and threatened him with dire consequences, if he failed to pay that amount. It has also been alleged that the accused persons fraudulently executed three sale deeds with respect to land of the complainant, while the High Court and Hon'ble Supreme Court have already declared the possession of the complaint over the land in question.

4. The learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been framed up in this case. The petitioners claim that land on the basis of a sale deed executed by the mother of the complainant, to which the learned counsel for the complainant replied that it was a forged and fabricated sale deed.

5. The learned counsel for the complainant as well as the learned APP for the State, opposing the prayer for anticipatory bail, have submitted that the complainant was found in possession of the land by the High Court in CWJC No.



463 of 1987. The LPA No. 1262 of 1999 preferred by the aggrieved party was also dismissed. The Hon'ble Supreme Court also dismissed the SLP (Civil) No. 18092 of 2001. Despite that fact, the accused persons, by taking law in their hands, attempted to dispossess the complainant from his land. It has also been submitted that the **petitioners are persons of criminal antecedents and five cases are pending against petitioner no.1 and eight cases are pending against petitioner no.2.** The cognizance in this was taken by the court below against the petitioners and other accused persons on 13.01.2021 and despite issuance of bailable and non-bailable warrant of arrest, they are still absconding and delaying the case.

6. By relying upon the decision of Hon'ble Supreme Court passed in *SLP (Crl.) No. 7940 of 2023*, dated 14.03.2024 (*Srikant Upadhyay & Others Vs. State of Bihar and another*), the learned counsel for the complainant submitted that a person, who is evading his appearance despite the issuance of non-bailable warrant of arrest, is not entitled for privilege of anticipatory bail. Paragraph nos. 25 and 26 of the said decision are being reproduced hereunder:-

“25. The factual narration made hereinbefore would reveal the consistent disobedience of the appellants to comply with the orders of the



Trial Court. They failed to appear before the Trial Court after the receipt of the summons, and then after the issuance of bailable warrants even when their co-accused, after the issuance of bailable warrant, applied and obtained regular bail. Though the appellants filed an application, which they themselves described as “bail-cum-surrender application” on 23.08.2022, they got it withdrawn on the fear of being arrested. Even after the issuance of non-bailable warrants on 03.11.2022 they did not care to appear before the Trial Court and did not apply for regular bail after its recalling. It is a fact that even after coming to know about the proclamation under Section 82 Cr.PC., they did not taken steps to challenge the same or to enter appearance before the Trial Court to avert the consequences. Such conduct of the appellants in the light of the aforesaid circumstances, leave us with no hesitation to hold that they are not entitled to seek benefit of pre-arrest bail.

26. The upshot of the discussion is that there is no ground for interfering with the order of the High Court rejecting the application for anticipatory bail rather not considering application on merits. Since there action is nothing short of defying the lawful orders of the Court and attempting to delay the proceedings, this appeal must fail.



Consequently, it is dismissed.”

7. The complainant was found in possession of the land by this Court and the SLP of the petitioners has already been dismissed by the Hon’ble Supreme Court. As many as eight cases are pending against them and they are avoiding the order of the trial court and for their appearance, the case is pending since the year 2021.

8. In the facts and circumstance of the case and for the aforesaid observation, the petitioners are not entitled for privilege of anticipatory bail, which is hereby rejected.

(Nawneet Kumar Pandey, J)

HR/-

U		T	
---	--	---	--

