

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77586 of 2023

Arising Out of PS. Case No.-571 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Md. Turrez Khan Son Of Late Ashfaq Khan Resident Of Village- Sui Ki Masjid, Moghalpura, Ps- Khajekalan, Dist- Patna
 2. Md. Shadab Khan Son Of Late Ashfaq Khan Resident Of Village- Sui Ki Masjid, Moghalpura, Ps- Khajekalan, Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Parwaz Khan, aged about 62 years, S/o Late Md. Ashfaq Khan, Resident of Sui Ki Masjid, Moghalpura, P.S. Khajekalan, District-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, APP
For the O.P. No.2	:	Mr. Shahid Akhtar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioners and learned A.P.P. for the State as well as learned counsel for the opposite party no. 2.

02. In the present case, the petitioners are apprehending their arrest in connection with Complaint Case No. 571(c) of 2022, in which cognizance has been taken for the offence under Sections 120(b) and 468 of the Indian Penal Code.

03. As per prosecution case, the petitioners, who are brothers of the complainant, got entered their names in the municipal record for a joint ancestral house excluding the name



of complainant.

04. Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. The complainant's father have two properties (houses) and in one of the houses, petitioners and Md. Javed Khan resides and in another house, complainant resides. So, the petitioners and Md. Javed Khan distributed the properties amongst themselves. The dispute arose between the petitioners and Md. Javed Khan and a compromise paper has been made between them on 08.11.2014. On the basis of agreement paper dated 08.11.2014, Holding No. 19, 19A and 19B were allotted in the Patna Municipal Corporation for the purpose of paying Holding Tax by the petitioners and Md. Javed Khan. The complainant is having good relationship with his brother Md. Javed Khan and for this reason he has not made him accused in the complaint petition while the allotment of the holding number is also in the name of Md. Javed Khan. Nothing has come on record to show that any forged and fabricated documents were prepared and for this reason, no offence under Section 468 of the IPC is made out against the petitioners. Learned counsel further submits that the petitioners have got no criminal history.

05. Learned A.P.P. for the State as well as learned



counsel for the opposite party no. 2 vehemently oppose the prayer for anticipatory bail. Learned counsel for the opposite party no.2 submits that the petitioner by creating false documents excluded the complainant from the ancestral property. The agreement which was entered by the petitioners with Md. Javed Khan has not been made with his complainant. The property which is said to be in possession of the complainant is the self acquired property of the complaint and the petitioners have denied his share in the ancestral property which they distributed amongst themselves.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the predominantly civil nature of dispute, let the petitioners above named, in the even of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Patna City/concerned court in connection with Complaint Case No. 571(c) of 2022, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:



- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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