

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.408 of 2024

Arising Out of PS. Case No.-698 Year-2023 Thana- SARAN COMPLAINT CASE District-
Saran

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1. Ganesh Singh, aged about 50 years, Male, S/O Basant Singh, R/O Village- Mohalla- Khemaji Tola, P.S- Chhapra Muffassil, Distt.- Saran.
 2. Om Prakash Srivastava, aged about 45 years, Male, S/O Late Krishna Murarai Prasad, R/O Village- Mohalla- Khemaji Tola, P.S- Chhapra Muffassil, Distt.- Saran.
 3. Satish Kumar Sah, aged about 36, S/O Nag Narayan Sah, R/O Village- Mohalla- Khemaji Tola, P.S- Chhapra Muffassil, Distt.- Saran.

... .. Petitioners

Versus

1. The State of Bihar.
2. Maya Kunwar, aged about 55 years, Female, W/O Late Kameshwar Sah, D/O Late Bhubhneswar Sah, R/O Village- Newaji Tola, P.S- Chhapra Muffassil, Distt.- Saran.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Dharmendra Kumar Singh, Advocate
For the State	:	Mr. Arun Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 19-02-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners are apprehending their arrest in connection with Complaint Case No. 698 of 2023, Trial No. 1271 of 2023 dated 16.03.2023 registered for the offences punishable under Sections 120B, 323, 379, 420, 467, 468, 471, 386, 354, 504 of the I.P.C. and Section 27 of the Arms Act in



which cognizance has been taken for the offences punishable under Sections 323, 354, 379, 384, 420, 467, 468 and 471/34 of the I.P.C.

3. As per the prosecution case, the co-accused Satish Kumar Sah (petitioner no. 3) filed a Probate Case No. 80/2020 against the complainant by making a fake *Basiyatnama* in the court of learned Additional District and Sessions Judge-XI, Chapra. The complainant had filed reply in the said probate case to the effect that the said *Basiyatnama* is fake. An information was sought with regard to the said *Basiyatnama* from the Registration office Chapra, under the Right to Information Act, 2005. On 13.07.2022, District Additional Registrar, Chapra, Saran has provided vide its Memo No. 305 in which it was stated that on 20.11.2003, no Basiyatanama was registered in the name of Satish Kumar Sah (petitioner no. 3) in his office. After that knowledge, this information was furnished to Satish Kumar Sah (petitioner no. 3) then he threatened her. Om Prakash Srivastava (petitioner no. 2) and Ganesh Singh (petitioner no. 1) are the associates of Satish Kumar Sah (petitioner no. 3). They regularly used to quarrel with the complainant and on 14.03.2023 at 8.00 P.M., with a bad intention, they entered the house of the complainant, abused and assaulted her and Om



Prakash Srivastava (petitioner no. 2) pointed a pistol at the complainant and threatened to kill her and forcibly took her thumb impression on 5-6 plain papers, and other two co-accused persons tried to tear her clothes. On hulla, the witnesses came then she saved her prestige. The accused persons also took her bag containing Rs. 4,000/-.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. It is submitted that the petitioner no. 3 is the nephew of the complainant and as such the false and concocted story has been developed against the petitioners by her. The complainant is free will lady, and as such, she wants to grab the property of the parental house and when the petitioner no. 3 stopped to sell the same then this false complaint was filed against the petitioners. The petitioners are very poor men and they are doing the worship in the family for livelihood and they are not in a position to fulfill all demands of the complainant. The complainant is always pressuring for sale of the property of her father but the petitioner no. 3 claimed his title over the land then a sada will in favour of the petitioner no. 3 by the mother the petitioner no. 3 and the petitioner nos. 1 and 2 are the witnesses of the said will except this, nothing has come against



the petitioners. Earlier the petitioners have filed a Probate Case No. 80 of 2020 against the complainant before the learned District and Sessions Judge, Saran at Chapra and after receiving notice, this false complaint has been filed by the complainant. Learned counsel for the petitioners has further submitted that the complaint was filed on 16.03.2023 and cognizance has been taken on 24.04.2023 and bailable warrant has been issued on 20.05.2023 and summon was issued on 23.05.2023. The petitioners have clean antecedents as stated in paragraph no. 3 of the bail petition. Learned counsel for the petitioners has submitted that the anticipatory bail application is maintainable even after issuance of the process under Section 82 of the Cr.P.C. Learned counsel for the petitioner has further relied upon the case of ***(Santosh Yadav @ Santosh Kumar Vs. The State of Bihar, Cr. Misc. No. 38750 of 2021 arising out of P.S. Case No. 191 year-2021, Thana-Bahadurpur, District-Darbhanga)*** disposed of on 04.07.2022) where the Hon'ble Patna High Court has held that: “*anticipatory bail application is maintainable even after issuance of process under Section 82 of the Cr.P.C. though the accused on merits may not be entitled to seek relief based on his conduct leading to issuance of process under Section 82 but then definitely maintainability of an*



anticipatory bail application after issuance of process under Section 82 is definitely not barred.”

5. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 have vehemently opposed the prayer for anticipatory bail of the petitioner. It has been submitted by learned counsel for the opposite party no. 2 that the anticipatory bail application of the petitioners is not maintainable as the process under Section 82 of the Cr.P.C. has been issued against the petitioners.

6. Considering the aforesaid facts and circumstances of the case as well as the process under Section 82 of the Cr.P.C. has been issued against the petitioners, the anticipatory bail petition of the petitioners is not maintainable. Accordingly, the same is disposed of with a direction to the petitioners to surrender before the learned court below within a period of six weeks from the date of receipt/production of a copy of this order and the learned court below may consider the prayer for regular bail of the petitioners in accordance with law and on its own merits without being prejudiced of the order of this Court in connection with Saran Complaint Case No. 698 of 2023, Trial No. 1271 of 2023, pending in the court of learned Additional Chief Judicial Magistrate-4th, Saran at Chapra.



7. Accordingly, the anticipatory bail application of the petitioners stands disposed of.

(Chandra Prakash Singh, J)

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