

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12088 of 2025

Arising Out of PS. Case No.-738 Year-2023 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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Mukesh Kumar S/O- Ram Dular Rai Moh- Maharana Pratap Nagar New
Police Line, Ps- Ara Nawada Dist- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kesho Singh S/o Late Tulsi Singh R/o vill - Milky, P.S.- Udwantnagar,
Distt.- Bhojpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vishwajeet Kumar Mishra
For the Opposite Party/s : Mr.Aditya Narayan Singh.1

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 30-06-2025 Heard learned counsel for the petitioner, learned

Additional Public Prosecutor for the State and learned counsel

for the opposite party no. 2.

2. The petitioner is apprehending his arrest in a case
registered for the offence punishable under Sections 420, 467,
468, 120B of the Indian Penal Code.

3. The prosecution arises out of a complaint filed by
the opposite party no. 2 wherein there is allegation of illegally
acquiring the land of the complainant and executing a sale deed
on 29.10.2021 by accused nos. 3 and 4 in the name of accused
nos. 1 (petitioner) and 2.

4. Learned counsel for the petitioner submits that it
would be evident from a bare reading of the complaint itself that



the said sale deed was executed on 29.10.2021 and the complainant got the knowledge of the same on 08.07.2022 itself. Yet the present complaint came to be filed on 02.05.2023 whereafter cognizance in the matter was taken. So far as the petitioner is concerned, he is a bonafide purchaser of the said land in question which he has purchased from one Munari Kunwar and the said Munari Kunwar is an agnate of the complainant and on account of a dispute in the family itself, a title suit between the parties is also going on wherein there is a specific relief claimed for setting aside the sale deed in question.

5. Learned counsel for the opposite party no. 2, however, opposes the application for anticipatory bail on the ground that the complainant has been cheated as her ancestral property has been fraudulently sold off by the accused persons. Further, it has also been submitted that Section 82 of the Cr.P.C. process has also been issued against the present petitioner. In response to the same, learned counsel for the petitioner has filed a supplementary affidavit bringing on record the fact that there is no service report of the earlier warrants and the fact with regard to the issuance of process under Section 82 of the Cr.P.C. was also not within his knowledge. Further, once he came to know of the process having been issued without any service



report and reminder, the same has been challenged by him in a criminal revision application bearing Cr. Revision No. 80 of 2025. The petitioner had filed his anticipatory bail application before the court below in the year 2024 itself which was, however, rejected on 01.03.2025. Further, a reference has also been made to the judicial pronouncement of **Asha Devi Vs. State of MP passed in Cr. Appeal No. 4564 of 2024, S.L.P Cr. No. 13123 of 2024** dated 12.11.2024 in paragraph-8, whereof, it has been laid down that there is no complete or absolute embargo for seeking the benefit of anticipatory bail in case of issuance of process under Section 82 of the Cr.P.C. and other attending factors also have to be taken into consideration.

6. Taking into consideration that the matter arises totally out of a civil dispute for which recourse has already been taken to civil proceedings and considering the fact that the petitioner is a bonafide purchaser, the provisional bail granted to the petitioner vide order dated 22.03.2025 stands confirmed.

(Soni Shrivastava, J)

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