

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32663 of 2025

Arising Out of PS. Case No.-597 Year-2023 Thana- KESARIA District- East Champaran

1. Asdullah @ Sheikh Asdullah S/o Late Sheikh Abdul Ajim Resident of village - Rampur Korar, Ward No. 13, Police Station - Kesharia, Distt.- East Champaran
2. Abdul Wasit @ Abdul Basit S/o Asdulla @ Sheikh Asdullah Resident of village - Rampur Korar, Ward No. 13, Police Station - Kesharia, Distt.- East Champaran
3. Md. Aailaish @ Md. Owaish @ Md. Aubaish S/o Asdullah @ Sheikh Asdullah Resident of village - Rampur Korar, Ward No. 13, Police Station - Kesharia, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshul, Sr. Advocate Mr. Pratyush, Advocate Ms. Tooba Hera, Advocate Mr. Thakur Brajesh Singh, Advocate
For the Informant	:	Mr. SBK Mangalam, Advocate Mr. Nafisuzoha, Advocate
For the State	:	Mr. Jitendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 07-08-2025 Heard Mr. Anshul, learned senior counsel for the petitioners, Mr. SBK Mangalam, learned counsel appearing on behalf of the informant as well as Mr. Jitendra Kumar Singh, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Kesariya P.S. Case No. 597 of 2023, F.I.R. dated 17.12.2023 for the offences punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code.



3. According to prosecution case, these petitioners pressurised the informant to get his land registered in their favour by creating forged and fabricated sale deed and gift deed.

4. Learned counsel for the petitioners submits that petitioner no. 2 has clean antecedent and petitioner nos. 1 and 3 carries two criminal antecedents other than the present one but they are on bail in both the pending matter. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offences as alleged in the F.I.R. The real fact of the matter is that the informant's grandfather, namely, Tejarat Hussain and the petitioner no. 2's mother's grandfather, namely, Nejarat Hussain are siblings and both are sons of Kifaitullah. The informant is the maternal uncle of the petitioner nos. 2 and 3. The land in question was exchanged between the ancestors of the informant and the ancestors of the petitioner nos. 2 and 3. Since then the ancestors of the petitioner nos. 2 and 3 cultivated and possessed the aforesaid land and later the petitioner nos. 2 and 3 being the legal heirs cultivated and possessed the aforesaid land but in the year 2023, the informant has produced a false and forged gift deed bearing gift deed no. 12296, which is alleged to be executed on 12.10.1968 and started the claiming the land in



question. The said gift deed was made by the father of the informant, namely, Late Abdul Gafoor in favou of his son i.e., the informant. He further submits that prior to 2023, the informant never claimed the aforesaid land and he as well as his father was very well known that the aforesaid land belong to the ancestors of the petitioner nos. 2 and 3. The petitioner nos. 2 and 3 and wife of petitioner no. 1 have filed a partition suit bearing Partition Suit No. 196 of 2002 in the Court of Learned Sub-Judge, Motihari in which the informant is the defendant. Similarly, the informant has filed a title suit bearing Title Suit No. 508 of 2004 on 30.12.2004 in which the mother of petitioner nos. 2 and 3 was defendant. And after her death, her legal heirs, including the petitioners, substituted her and the same is pending for adjudication before the competent Court of law.

5. Learned counsel for the petitioners further submits that from perusal of the F.I.R it appears that the informant by filing the present F.I.R against the petitioners has given the civil dispute a criminal color. The Partition Suit No. 196 of 2002 the land having Khata No. 108 Khesra No. 1235 total area 6 Katha 11 Dhur is mentioned in Schedule 1 and as per the allegation made by the informant, out of the 6 Katha 11 Dhur land, the



petitioner no. 1 sold 3 Katha land to his son, namely, Abdul Wasit (petitioner no. 2)

6. Mr. SBK Mangalam, learned counsel appearing on behalf of the informant as well as learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioners and submits that the land in question pertaining to Khata No. 108, Khesra No. 1235 area of 6 Katha 11 Dhur. In the 1946 in between the informant and the other co-sharers including these petitioners are the sharer of 50% of the alleged land, area of 3 Katha and 5 ½ Dhur. The co-sharer, namely, Sk. Suba, Sk. Makdoom Alam and Mansoor Alam sold 1 Katha 5 Dhur through sale deed no. 2432 dated 14.05.2002 in favour of Bibi Sabina Khatoon W/o Mansoor Alam. While the co-sharers have already sold 1 Khata 5 Dhur lands in 2002 itself then the rest land is only 2 Katha ½ Dhur in which the petitioner no. 1 is the owner of 13 Dhurs land but he sold again 3 Katha of land to his own son i.e., petitioner no. 2 through sale deed no. 1248 dated 03.04.2018.

7. Considering the aforesaid facts and circumstances that the land in question is the subject matter of the Title Suit No. 508 of 2004 which is pending for consideration before the competent Court of law and apart from that the petitioner nos. 2



and 3 and wife of petitioner no. 1 have already filed a Partition Suit No. 196 of 2002 which suggest that the present case is civil dispute and the parties shall abide the outcome of the aforesaid suit, let the petitioners, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Kesariya P.S. Case No. 597 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall



verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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