IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70517 of 2024

Arising Out of PS. Case No.-438 Year-2024 Thana- GAYA MUFASIL District- Gaya

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1. Md. Shabir @ Tipu S/O Late Md. Habib Resident of Mohalla- Near Badi Masjid Abgilla, P.S- Mofassil, Distt.- Gaya.
2. Santosh Kumar Singh @ Santosh Singh S/O Tulsi Singh R/O Mohalla- Surajdeo Nagar, Road No. 4, P.S- Mofassil, Distt.- Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Sunita Kumari W/O Rajiv Ranjan Verma R/O Village- Shikhar, P.O- Baragandhar, P.S- Mofassil, Distt.- Gaya.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Niranjan Kumar, Advocate Mr. Subham Singh, Advocate Mr. Bipin Yadav, Advocate
For the Opposite Party/s	:	Mrs. Renu Kumari, APP
For the informant	:	Mr. Deepak Kumar, Advocate Mr. Dhandev Kumar, Advocate Mr. Dhananjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL ORDER

4 10-02-2025 Heard learned counsel for the petitioners, learned counsel appearing on behalf of the informant and learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Mufassil P.S. Case No. 438 of 2024 for the offence under Sections 323, 354, 379, 467, 468, 420, 120(B), 504, 506/34 of the I.P.C.

3. The prosecution story in brief is that the informant/Complainant - Sunita Kumar has alleged in her complaint petition which is the basis of F.I.R. that her Uncle-in-

law namely Shyam Nandan Prasad, who was issue-less, had gifted his share of landed property measuring 64.25 dec. land in her favour by means of registered deed of gift on 17.02.2023 to prevent any dispute after his life time. When she went to Block for mutation of said land on 15.12.2023, both the accused persons who were living in the vicinity of block and known to her husband, told her that they are very much acquainted/aware with mutation proceedings, so don't worry about it. The alleged accused persons told her to give them the photo copy of registered gift deed, and to come on 19.12.2023 for putting some signatures on blank papers as well as on stamp papers. Thereafter, when the work was not done, the complainant got some doubt and she contacted the petitioners and enquired about the same, then she came to know that they have sold the aforementioned piece of land. Upon her objection, they tried to outrage her modesty, but due to timely intervention of her husband she saved herself. It is further alleged that complainant came to know that petitioners have misused the papers signed by the complainant and wrote the things which was relevant as per them. It is further alleged that petitioner Shabir snatched Rs. 5,000/- from the pocket of complainant's husband and Santosh Singh snatched a gold chain weighing 1.5 *bhar* and *jitiya* from her possession.

4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case and they have committed no offence. The instant alleged Complaint/FIR has manifestly been filed with *mala fide* intention of the informant and also having ulterior motive to grab the advance money amounting to Rs. 70,00,000/- given by the petitioners to the Complainant/informant of this alleged case. He further submits that Shyam Nandan Prasad who was issue-less had gifted his share of landed property measuring 64.25 decimal land which was registered in her favour on 22.02.2023. Learned counsel further submits that the alleged Rs. 70,00,000/- has been given to the informant/complainant in presence of her husband Rajiv Ranjan verma in the following manner:-

Sl. No.	Dated	Amount
1.	18.02.2023	Rs. 30,00,000/-
2.	16.03.2023	Rs. 25,00,000/-
3.	28.12.2023	Rs. 15,00,000/-
	Total	Rs. 70,00,000/-

5. During course of argument, learned counsel for the petitioners cited **Circular Order No. 01/2023** but, in the present case it is not applicable at all because investigation is still going on and there are other offences also against the petitioners

which attracts punishment for more than seven years.

6. Learned counsel appearing on behalf of the informant vehemently opposes the prayer for bail and submits that petitioner no. 2 has two criminal antecedents and one of the antecedents is registered under Sections 191, 193, 196, 199, 419, 420, 465, 418, 471, 479, 120B of the Indian Penal Code which clearly indicates that he is a habitual offender of such type of offence.

7. From perusal of case diary, it appears that in para 2, 5, 6, and 7 witnesses have supported the prosecution story and in para 18 of the case diary supervision note has been mentioned in which offence under Sections 323, 354, 379, 406, 420, 504 and 506/34 of the Indian Penal Code has been found true against both the petitioners.

8. The said unregistered deed of agreement is purported to be executed on 28.12.2023, which covers a stipulated period of eleven months. Meanwhile, a legal notice has been sent by the accused/petitioners against the informant. Learned counsel for the petitioners has argued that Rs. 70,00,000/- was paid on various dates including on the date of preparation of agreement and he has also argued that the entire amount of Rs. 70,00,000/- has been paid to the informant in

presence of her husband in cash not by any cheque or RTGS. It is also considerable fact here that even after lapse of two years, no Civil Suit has been filed on behalf of the petitioners for recovery of aforesaid Rs. 70,00,000/- from the complainant after refusal of execution of registered sale deed. In the context of prevalent trend and norms in this state it is undigestable, impracticable and inherently improbable that anyone can give such a huge amount of Rs. 70,00,000/- without taking any chit of paper regarding proof of receiving of the same and the person who has given Rs. 70,00,000/- will not take any legal step for recovery of that amount till date. Where such huge amount of cash was kept, is also not clear from the stand of petitioner. After sending legal notice, no any step has been taken till date. Learned counsel for the petitioner has also argued that there was no occasion to give her paper to the accused persons because petition for mutation was already filed before the concerned '*Anchal*' and Mutation Order was also passed. But it is considerable fact that only petition was filed for mutation by the informant but nowhere it is stated that order was passed prior to the alleged date of talk with the petitioner. The photo copy of the rejection order of Mutation Order is also annexed, which has been passed after alleged date of agreement, so the entire argument made on behalf of the petitioner is not believable at all and hence it cannot be relied upon. In case diary, the witnesses in para 5, 6, and 7 have supported the prosecution story and allegation leveled against the petitioners. The Supervising Authority has also found the case true under Sections 420, 406, 379, 303, 354, 504,506/34 of Indian Penal Code in para 18 of the Case Diary. Investigation is still going on.

9. Keeping in view the aforesaid facts, and considering the specific allegation of cheating, criminal breach of trust and committing forgery in preparing forged deed of agreement to sell pertaining to the landed property of the complainant as alleged in the complaint petition, this Court is not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the present petition for anticipatory bail of the petitioners stands rejected.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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