

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
A.B.A. No. 302 of 2021

Jai Devi @ Jaya Devi

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Petitioner

Versus

1. The State of Jharkhand

2. Ajay Mahto

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Opposite Parties

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CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**

Through: Video Conferencing

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For the Petitioner: M/s Anil Kr. Sinha, Nirupama, Advocate

For the State: Mr. Tarun Kumar, A.P.P

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04/26.03.2021      Despite notice issued vide order dated 19.02.2021 under registered cover with A/D and speed post and also through the Officer-in-Charge of Sahibganj (Nagar) P.S. on the opposite party no. 2 and further reminder sent vide order dated 12.03.2021, notice could not be effected. As per office note, Officer-in-charge, Sahibganj (Nagar) P.S. has reported that Ajay Mahto does not live at the mentioned address. Undelivered registered cover with A/D and speed post has also returned with endorsement that 'addressee' could not be traced.

2.      Learned counsel for the petitioners submits that notice has been sent to the same address given by the complainant / opposite party no. 2 in the Complaint petition. Petitioner does not have any knowledge of any other address of the complainant. Therefore, notice may be treated as valid.

        In the aforesaid circumstances, no further steps for service of notice upon the opposite party no. 2 can be taken.

3.      Learned counsel for the petitioners submits that inadvertently, present application has been filed seeking anticipatory bail by two persons, though by order dated 03.02.2020 passed in Complaint Case No. 776/2018 (Annexure-2), learned Chief Judicial Magistrate, Sahibganj has taken cognizance against the accused Jai Devi / petitioner no. 1 only. Therefore, name of the petitioner no. 2 – Subodh Yadav @ Subodh Kumar may be deleted from the array of parties. Accordingly, let the name of petitioner no. 2-Subodh Yadav @ Subodh Kumar be deleted from the array of parties by the Registry.

        Heard learned counsel for the petitioner and the learned A.P.P for the State.

4.      Petitioner- Jai Devi @ Jaya Devi seeks anticipatory bail in terms of Section 438 of the Cr.P.C in connection with Complaint Case No. 776/20218

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instituted for the offence under sections 406 and 420 of the Indian Penal Code and pending before the Court of learned Chief Judicial Magistrate, Sahibganj.

5. Learned counsel for the petitioners submits that it is evident from perusal of the Solemn Affirmation of the complainant that there is no receipt of the amount of Rs. 1,85,000/- allegedly paid by her in lieu of an Agreement for Sale / Gift of 06 katha of land in plot no. 626 bearing Jamabandi No. 02 under Mouza Bazar Kalyani No. 18. There is no such agreement to that effect. Learned counsel for the petitioner submits that the petitioner may be protected from unnecessary incarceration as she has been falsely implicated in this case and moreover, dispute, if any, could be of civil nature.

6. Learned A.P.P has opposed the prayer.

7. I have considered the submissions of learned counsel for the parties and taken note of the facts and circumstances above. Having regard to the aforesaid facts and circumstances of the case and that the allegations relate to execution of a gift deed and non-delivery of possession consequent thereto and dispute is primarily of a civil nature, I am inclined to grant anticipatory bail to the petitioner. Accordingly, petitioner Jai Devi @ Jaya Devi, in the event of her surrender or arrest within a period of four weeks, shall be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sahibganj in connection with Complaint Case No. 776/2018, subject to the conditions as laid down under Section 438(2) of Cr.P.C.

Petitioner shall cooperate in the investigation. Petitioner and her bailors shall not change their address or mobile number without permission of the trial court.

**(Aparesh Kumar Singh, J)**

Ranjeet/