

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.40454 of 2023**

Arising Out of PS. Case No.-4634 Year-2022 Thana- PATNA COMPLAINT CASE District-  
Patna

- 
1. Syed Badi Asghar @ Syed Badie Asghar Son Of Late Syed Hassan Flat No. 101, High Tech Areeb Apartment, Road No. 3, New Patliputra Colony, P.O. P.S. Patliputra, District- Patna
  2. Sheema Nezami @ Sheema Nizami Wife Of Syed Badi Asghar Resident Of Flat No. 101, High Tech Areeb Apartment, Road No. 3, New Patliputra Colony, Po And Ps- Patliputra, District- Patna

... .. Petitioner/s

Versus

1. The state of Bihar
2. Effat naseem wife of late md. Naseem @ mohammad naseem resident of isopur, po and ps- phulwarisharif, district- patna at present flat no. H.i/1st floor, al-hamd gulmohar suites near nadeem tarin hall, sir syed nagar koil, district- aligarh

... .. Opposite Party/s

---

**Appearance :**

For the Petitioner/s : Mr.Nafisuzzoha, Advocate  
For the Opposite Party/s : Mr.Binod Kumar. APP  
For the Complainat : Mr. Allama Abdul Quadir, Advocate

---

**CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA**  
**ORAL ORDER**

- 5      18-06-2025                      1. Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the opposite party no.2/complainant.
2. The petitioners apprehend their arrest in connection with Patna Complaint Case no.4634C of 2022 registered under sections 420, 409, 418, 423, 467, 468, 120B and 34 of the Indian Penal Code.
3. The case of the prosecution is that husband of the opposite party no.2/complainant had executed a Power of



Attorney in favour of petitioner no.1 Sayed Badi Asgar for selling his lands. It is alleged that despite the fact that husband of the opposite party no.2/complainant had died and yet based on the said Power of Attorney, the petitioner no.1 executed sale deed in respect of land in question in favour of his wife Sheema Nezami (petitioner no.2) and one Salma Khatoun. It has further been submitted that husband of opposite party no.2/complainant had made a deed of agreement with petitioner no.1 for the sale of land and subsequently, a Power of Attorney had been executed in favour of petitioner no.1 for the sale of property. The petitioner no.1 has already paid the full consideration amount in the account of husband of opposite party no.2/complainant and her son. The further submission on their behalf is that the case is purely of civil nature and the opposite party/complainant has alternative civil remedies which are being pursued by the complainant by filing a title suit bearing Title Suit No. 191 of 2022. The petitioners have no criminal antecedent and undertake to co-operate in the case/trial.

4. Per contra, it is submitted on behalf of opposite party no.2/complainant that a fraud has been committed by the petitioners as petitioner no. 1 has fraudulently executed sale deed with respect to the land in question in favour of his own



wife who is petitioner no.2 and one Salma Khatoon even after having knowledge of the fact that husband of opposite party no.2/complainant who had executed a Power of Attorney in favor of petitioner no.1 had already died and hence, no action could be taken on the said Power of Attorney. It has also further been submitted that deed of agreement which has been mentioned in the petition was already cancelled. The application for grant of anticipatory bail of Co-accused Yusuf Abdullah has already been rejected by a co-ordinate Bench of this Court vide order dated 18.09.2024 passed in Cr. Misc. No. 41877 of 2023.

5. It appears that the instant case is kept pending for a long time on the ground that the petitioners would approach the opposite party no.2/complainant and get the matter settled. However, by his fraudulent act, the petitioner no.1 has kept a widow running from pillar to post for her land and hence for such offence, the petitioner no.1 who has executed the sale deed does not deserve the benefit of anticipatory bail and the application is rejected with respect to petitioner no.1 Sayed Badi Asghar @ Syed Badie Asghar.

6. So far as petitioner no.2 is concerned, no doubt she is also a beneficiary in the present case as the land has been executed in her name but considering the fact that she is a



*pardanasin* lady and is not aware of the intricacies involved, in such view of the matter, I am inclined to grant privilege anticipatory bail to the petitioner no.2. Let the petitioner no.2, namely, Sheema Nezami @ Sheema Nizami in the event of her arrest or surrender before the learned Court below within a period of four weeks, be released on anticipatory bail in connection with Complaint Case no.4634C of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate-1st Class, Patna subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S, 2023 and subject to the further condition that petitioner no.2 will co-operate in case/trial.

7. The application stands disposed of.

**(Soni Shrivastava, J)**

Harsh/-

U		T	
---	--	---	--

