

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-41924-2024
Reserved on: 12.11.2024
Pronounced on: 28.11.2024

Chaman Lal and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aditya Anand, Advocate,
for the petitioners.

Mr. Akshay Kumar, AAG, Punjab.

Mr. H.S. Batth, Advocate,
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
26	01.08.2024	NRI, District Kapurthala	420, 465, 467, 468, 471, 474, 120-B IPC

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], (erstwhile Section 438 CrPC) seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declare that they have no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

"2. That present FIR No.26 dated 01.08.2024 Under sections 420, 465, 467, 468, 471, 474, 120-B Police Station NRI Kapurthala, District Kapurthala was registered on the basis of complaint bearing UID No.2407551 filed by complainant Chanda Sidhu Atwal to the ADGP, NRI Wing Punjab for taking action against Satnam Singh, Harnek Singh and Chaman Lal on the allegations that they all hatched criminal conspiracy and prepared forged and fabricated Will dated 07.04.2008 on the name of Jaqdish Kaur Sidhu in favor of Satnam Singh in order to usurp the property

measuring 27 Acres, inherited by the complainant being only legal heir of her Massi Jagdish Kaur Sidhu who died intestate on 24.04.2019 and mutation no. 51763 was sanctioned.

3. That it has further come on record that on alleged dated i.e. 07.04.2008 Jagdish Kaur Sidhu was not found present in India, moreover after her death on 24.04.2019, forged and fabricated 'Will' was prepared to usurp the property of deceased Jagdish Kaur Sidhu, as such petitioners along with co-accused Satnam Singh with mala fide intention have prepared forged and fabricated 'Will' purportedly being made by Jagdish Kaur Sidhu as such after due enquiry, Enquiry Officer recommended to register FIR against Harnek Singh, Satnam Singh and Chaman Lal."

4. The petitioners' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

5. The State's counsel opposes bail and refers to the status report.

6. The complainant also opposes the bail.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

"5. That there are specific allegations against the petitioners for conniving with co-accused Satnam Singh of preparing forged 'Will' in order to usurp the property measuring 27 Acres as both the petitioners stood as witness in the alleged forged 'WILL' hence present FIR was rightly registered against them thus present petition is liable to be dismissed.

Evidence Collected against petitioner

6. That complainant has levelled specific allegations against petitioner and co-accused of fabricating Will in the name of Jagdish Kaur Sidhu in order to usurp her property. It has come on record that deceased Jagdish Kaur Siddoo never visited India on 07.04.2008 to execute the alleged will in question. The travel history of the deceased Jagdish Kaur Siddoo has been obtained which shows that the deceased never visited India on the date mentioned to execute the alleged will. It is pertinent to mention here that both the petitioners stood as witness in the alleged forged 'Will' thus both petitioners actively connived in preparing forged 'WILL'. It is pertinent to mention here that AIG NRI Wing Jalandhar has procured travel history of deceased Jagdish Kaur Siddoo from Bureau of Immigration, Ministry Of

Home Affairs, Government of India and as per their communication it transpired that Jagdish Kaur Siddoo left India on 27.03.2008 and came to India on 11.11.2008 and thereafter she left India on 13.05.2009 as such it is very much evident that Jagdish Kaur Siddoo was not present in India on 07.04.2008 i.e. date of execution of forged WILL hence it is very much evident that petitioners connived with other co-accused in forging said 'WILL' thus present petition is liable to be dismissed."

8. The petitioners’ case is on a lower footing than the main accused.
9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.
10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
11. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner’s complying with the following terms.

14. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody

for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. This bail is conditional, and the foundational condition is that if the petitioners indulge in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.11.2024
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.