

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. **CRM-M-2304 of 2015 (O&M)**
Date of decision: 6.07.2015

Ujagar Singh **Petitioner**

Versus

State of Punjab **Respondent**

2. **CRM-M-12321 of 2015 (O&M)**

Nahar Singh **Petitioner**

Versus

State of Punjab **Respondent**

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Kirpal Singh, Advocate
for the petitioner in CRM-M-2304 of 2015

Mr. Gaurav Pathak, Advocate
for the petitioner in CRM-M-12321 of 2015

Mr. Gazi Mohd., DAG, Punjab.

R.P. NAGRATH, J.

By this common order CRM-M-2304 of 2015 and CRM-M-12321 of 2015 are being disposed of as prayer in both these petitions is for grant of anticipatory bail under Section 438 Cr.P.C. in FIR No. 17 dated 11.03.2014 for offences under Sections 419, 420, 465, 467, 468, 471 and 120-B of Indian Penal Code (IPC),

Police Station Haibowal, District Ludhiana.

The facts are being extracted from CRM-M-2304 of 2015.

The instant FIR was registered on the complaint dated 18.11.2013 made by Kulbhushan Pathak son of late Sh. Amar Nath Pathak. There was 10 kanals of land situated in village Jassian, Ludhiana in the name of Smt. Parsinni Devi, grandmother of the complainant, his father Amar Nath Pathak and other legal heirs. It was found that a forged sale deed was prepared on 08.10.1993 in respect of the said land, which purported to be also thumb marked by Smt. Parsinni Devi, grandmother of the complainant, though, Smt. Parsinni Devi had died much earlier in the year 1977. It was further stated that signatures of remaining legal heirs on the sale deed were also forged. Ujjagar Singh son of Bhagwan Singh was stated to have usurped this land through fraud by getting the land transferred in his name by showing somebody else to be the original owner and using fake documents.

I have heard learned senior counsel for the petitioner in CRM-M-2304 of 2015, counsel for the petitioner in CRM-M-12321 of 2015, the State counsel and perused the paper-books.

Learned senior counsel for the petitioner in CRM-M-2304 of 2015 submitted that the disputed property is part of 13 *kanals* and 6 *marlas* of the land out of which $\frac{1}{2}$ share i.e. 6 *kanals* 13 *marlas* was owned by Smt. Devki Devi and Ramji Dass; $\frac{1}{4}$ share i.e. 3 *kanals* 6 $\frac{1}{2}$ *marlas* by Bhag Singh and rest of $\frac{1}{4}$ share of land

measuring 3 kanals and 6½ marlas in the ownership of Parsinni Devi, Shanti Devi, Durga Dutt and Amar Nath Pathak. It was further contended that Devki Devi and Ramji Dass sold their share to Prem Singh vide sale deed dated 06.02.1973 but mutation was not entered in respect of the said land. It was further contended that on 08.10.1993, ½ share of Devki Devi and Ramji Dass and ¼ share of Parsinni Devi, Shanti Devi, Durga Dutt and Amar Nath Pathak was sold in favour of Ujjagar Singh son of Bhagwan Singh vide sale deed dated 08.10.1993 and this sale deed is stated to be a forged document.

Learned senior counsel for the petitioner submitted that Prem Singh, the purchaser filed a civil through his attorney Nirpinder Singh against Ujjagar Singh son of Bhagwan Singh for a declaration that he is owner in possession of 6 kanals and 13 marlas being ½ share of the land measuring 13 kanals 6 marlas on the basis of his sale deed dated 06.02.1973. It is also submitted by the learned senior counsel that Ujjagar Singh son of Bhagwan Singh, in whose favour there was forged sale deed dated 08.10.1993, was represented in the civil court by Ujjagar Singh son of Sarwan Singh, petitioner in CRM-M-2304 of 2015, on the strength of a special power of attorney.

Learned senior counsel has also handed over the copy of plaint in Civil Suit No. 320 dated 11.06.1997 decided on 11.08.2001, which be taken on record.

The decree was passed by learned civil court on

11.08.2001 on the basis of a compromise entered into between the aforesaid Prem Singh and Ujjagar Singh son of Bhagwan Singh through his special attorney, namely; the petitioner. The copy of compromise is Annexure P-3 and the decree-sheet Annexure P-4, annexed with the paper-book of CRM-M-12321 of 2015.

Learned State counsel, on the other hand, submitted that a special investigating team has been constituted to investigate this case because it involves serious allegations and needs a thorough probe. It is apparent that the document of sale deed dated 08.10.1993 is a forged document because it also purports to be executed by Smt. Parsinni Devi, grandmother of the complainant, though she had died about 16 years before execution of the document. In the reply filed by the State counsel, it was stated that fake sale deed of the year 1993 also purported to be attested by one Surjit Singh and it has been found that Surjit Singh aforesaid is a fake person.

So far as the role of Ujjagar Singh son of Sarwan Singh, petitioner in CRM-M-2304 of 2015 is concerned, learned senior counsel submitted that he only represented Ujjagar Singh son of Bhagwan Singh in the compromise decree as his special attorney and did not play any role thereafter.

Learned counsel for Nahar Singh-petitioner in CRM-M-12321 of 2015, however, contended that the petitioner came into picture only in the year 2003 when Ujjagar Singh son of Bhagwan Singh, the vendee under the alleged forged sale deed dated

08.10.1993 executed a general power of attorney in his favour on 15.09.2003 in respect of 2 kanals 13 marlas of the land in the name of Ujjagar Singh son of Bhagwan Singh. Ujjagar Singh son of Bhagwan Singh is stated to have died on 13.02.2014. It is, therefore, contended that Nahar Singh-petitioner in CRM-M-12321 of 2015 cannot be held liable for the consequences of forged sale deed of the year 1993 just because there is subsequently a general power of attorney in his favour.

Learned State counsel submitted that it has emerged during the investigation that Nahar Singh-petitioner as well as Ujjagar Singh son of Sarwan Singh, petitioner in CRM-M-2304 of 2015 both are property dealers and have committed a big fraud. However, in view of the kind of role played by Ujjagar Singh-petitioner in CRM-M-2304 of 2015 that he statedly acted as attorney of Ujjagar Singh son of Bhagwan Singh in the civil suit, his petition deserves to be allowed.

However, the role played by Nahar Singh-petitioner in CRM-M-12321 of 2015 is quite serious and it seems that despite fully knowing the sale deed dated 08.10.1993 to be forged, the petitioner transferred part of land vide various sale deeds referred to in the reply and he has conducted as such being a property dealer.

In view of the aforesaid discussion, the prayer of Ujjagar Singh-petitioner in CRM-M-2304 of 2015 is allowed and the interim bail granted to him vide order dated 22.01.2015 is made

absolute. He is directed to abide by the conditions laid down in Section 438 (2) Cr.P.C.

The prayer of pre-arrest bail to Nahar Singh-petitioner in CRM-M-12321 of 2015, who has acted on the strength of general power of attorney in respect of land which was transferred in the name of Ujjagar Singh son of Bhagwan Singh on the strength of a forged sale deed does not deserve the concession of pre-arrest bail. CRM-M-12321 of 2015 is dismissed as this serious fraud has to be cracked by custodial interrogation of the petitioner.

It is, however, clarified that in case it is found during investigation that Ujjagar Singh son of Bhagwan Singh, who had died in Surrey, Canada, as contended by learned senior counsel, had himself no role in preparation of sale deed dated 08.10.1993 and that his name was only fictitiously mentioned in the documents in furtherance of fraud by the property dealers and further that document came into existence in connivance with Ujjagar Singh-petitioner in CRM-M-2304 of 2015, the prosecution would be at liberty to apply for cancellation of his pre-arrest bail.

July 06, 2015
jk

(R.P. NAGRATH)
JUDGE