

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

CRM M-23454 of 2015

Date of decision : 19.11.2015

Kamaljit Singh

....Petitioner

V/s

State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. P.S. Hundal, Sr. Advocate with
Mr. Jashandeep Singh, Advocate for the petitioner.

Mr. Shilesh Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner has sought pre-arrest bail in a case registered against him under sections 420, 465, 467, 468, 471 & 120-B IPC vide FIR No. 168/2012 dated 31.07.2012 at police station Phase-I, S.A.S. Nagar, Mohali wherein he has been summoned in exercise of power under section 319 Cr.P.C.

Learned counsel for the petitioner has contended that as the petitioner was found innocent during investigation, he deserves to be granted the concession of pre-arrest bail. According to him, no role is attributed to the petitioner. He has been erroneously arraigned as an accused.

Prayer has been opposed by learned State counsel. He has referred to affidavit of Ashish Kapoor, Superintendent of Police City-I, District SAS Nagar (Mohali). According to him, money was transferred to the account of the petitioner. The investigating agency itself intended to submit a supplementary challan in the

case against the petitioner. The investigating officer had been found to be negligent in the matter. Thus, departmental proceedings had been recommended against him.

I have heard learned counsel for the parties.

FIR was lodged by Randhir Singh and Karam Singh. Initially an inquiry was conducted by DSP (HQ), District SAS Nagar (Mohali). It came to the conclusion that after death of Parsini Devi and Shiv Kanwar, land in their name was got registered in the name of different persons by producing imposters namely Pritam Kaur, Piara Singh and Nagar Singh. These persons sold the property to M/s Ansal Property and Infrastructure Limited. Said imposters and the witnesses were found to be guilty by the Inquiry Officer. He also came to the conclusion that money was transferred from the bank account of Kashmir Singh to Kamaljit Singh (petitioner herein). Petitioner, however, claimed that it was refund of loan given by him.

From the facts and circumstances of the case, it appears that petitioner is a property dealer and is mastermind of the entire conspiracy to usurp the land and sell the same to a colonizer for valuable consideration. Investigating officer, however, favored the petitioner and declared him innocent. This is borne out from the affidavit filed by Ashish Kapoor, Superintendent of Police City-I, District SAS Nagar (Mohali). Relevant para is reproduced as follows:-

"Accordingly the deponent sought the report from the SHO, Police Station Phase-I, District SAS Nagar, the perusal of which revealed that the investigating officer and the then SHO, Police Station Phase I, did not bring

due evidence against Kamaljit Singh on the case file even when during the course of inquiry Nagar Singh and Kashmir Singh (co-accused) had stated that their bank accounts were got opened by Kamaljit Singh (petitioner) and the amount received in lieu of registries of land effected in the name of M/s Ansal Properties & Infrastructure Limited, was also obtained by Kamaljit Singh through cheques. The amount of Rs. 16,00,000/- was transferred on 21.01.2009 in the bank account of Kamaljit Singh and Rs. 15,15,000/- was transferred on 05.02.2009. Besides this, Gurinder Singh and Dharminder Singh who had put their witness on the fake General Power of Attorney and fake Sale Deeds, were also not made accused in the present case. During the course of trial, the complainant moved an application u/s 319 Cr.P.C. to summon Kamaljit Singh. Accordingly, the SHO, P.S. Phase I finding Inspector Kanwaljit Singh (then then SHO, Police Station Phase I) and SI Prem Chand (I.O.) to be negligent and careless towards their duty, recommended for initiation of departmental proceedings against them.

*Considering the aforementioned facts and circumstances, the deponent sought legal opinion from the Ld. DDA Legal, who vide his opinion dated 19.10.2015 stated that in the present case Kamaljit Singh had already been summoned by the Court of Ld. CJM, District SAS Nagar u/s 319 Cr.P.C, therefore, after completion of the further investigation in respect of the remaining accused, a supplementary challan was required to immediately presented before the Ld. Court. True translated copy of the opinion dated 19.10.2015 is being annexed herewith as **Annexure R-I/T** for the kind consideration of this Hon'ble Court."*

In view of the facts and circumstances of the case, I am
of the considered view that petitioner is not entitled to concession

of pre-arrest bail. There can be no dispute with the proposition that case of additional accused summoned under section 319 Cr.P.C. would normally considered by this court in light of the fact that they are not required by the investigating agency. However, facts of the instant case are entirely different. It is the stand of the investigating agency that entire conspiracy was hatched by the petitioner. This is also evident from the affidavit that an amount of ₹31,15,000/- was transferred to the account of the petitioner. Besides, investigating agency itself intended to file a supplementary challan in this case. Departmental action has also been initiated against the guilty police official(s). Under the circumstances, there is not merit in this petition. Dismissed.

November 19, 2015

Ajay

(RAJAN GUPTA)
JUDGE