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

CRM-M-26952 of 2015

Date of decision: August 14, 2015

Sumit Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vinod Gupta, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition under Section 438 of Code of Criminal Procedure, 1908 seeking anticipatory bail in FIR No.768 dated 11.11.2014, under Sections 420, 467, 468, 471, 120-B of Indian Penal Code, 1860, registered at Police Station Civil Line, Hisar.

Prosecution story in brief is that Kanta Devi had died issueless. She had executed a registered Will dated 24.10.2002 in favour of the complainant and his brother Ashok Kumar. Kanta Devi died on 10.04.2007. Complainant party was in possession of the plot in question. A case relating to acquisition of land was pending in this High Court and the same was decided on 26.02.2013. The plot in question was released from acquisition. When the complainant met the Patwari for sanction of mutation, he was informed that the mutation had already been sanctioned in favour of the petitioner on the basis of Will dated 12.01.2007 registered on 31.03.2014. Petitioner on the

basis of a forged Will had got the mutation sanctioned in his favour.

Learned counsel for the petitioner has submitted that civil litigation was pending between the parties. At this stage, allegation for forgery had been levelled against the petitioner, which was yet to be established before the civil Court. Learned counsel has further submitted that at the time of execution of the Will, petitioner was a juvenile. In support of his arguments, learned counsel has placed reliance **Gopakumar versus State of Kerala**, 2013 (1) RRC (CrI.) 809, wherein, it was held as under:-

“What should have been done by the learned Sessions Judge when the juvenile applied for anticipatory bail, which in the present case was opposed by the Public Prosecutor, has also to be looked into. So far as the juvenile in conflict with law, the competent authority to deal with him is the Juvenile Justice Board. But, it has to be noticed whatever powers enjoined by the Juvenile Justice Board can be exercised by the High Court or the Court of Session. S.6 of the Act deals with the powers of the Juvenile Justice Board. Sub-s.(2) of that section reads thus:

6. Powers of Juvenile Justice Board:

(1) xxx xxx xxx

(2) *The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Court of Session, when the proceeding comes before them in appeal, revision or otherwise.*

So much so, when any proceeding in relation to a juvenile comes before the High Court or the Court of

Session all powers conferred on the Board under the Act can be exercised. Such proceeding need not arise from appeal or revision. The words “or otherwise” used in sub-s.(2) of S.6 of the Act is quite significant and it has to be given true meaning and spirit taking note of the objectives of the enactment. When that be so, even in an application moved under S.438 of the Code, orders could be passed by the Sessions Judge exercising the powers of the Juvenile Justice Board. At any rate, orders passed by the Sessions Judge should be in conformity with the provisions of the Act and not against or violative of the spirit and objectives of that Act. Where the police apprehends a juvenile in conflict with law, the Act mandates for placing the juvenile in charge of the special juvenile police unit or the designated police officer, and, such unit or police officer further bound to report the matter immediately to a member of the Juvenile Justice Board, there could be no direction or order to release the juvenile in the event of his arrest on execution of a bond as passed under Annexure-V order. Mandatory prescriptions covered by S.10s of the Act have to be complied with by the police officer in the even of apprehension/arrest of juvenile in conflict with law, and once custody of the apprehended juvenile is handed over to the juvenile special unit or the designated police officer, what is his control over the juvenile is also taken care of under S.11 of the Act. Such being the provisions covered by the Act to ensure the right of the juvenile in conflict with law, to prevent him from being exposed to police and police stations, Annexure-V order passed directing execution of bond by the petitioner in the event of his arrest and all other conditions imposed thereunder have no sanction of law, and they are vacated.”

Learned counsel for the petitioner has also placed

reliance on ***Ram Sarup versus Jog Dhian***, 2000 (1) R.C.R. (Criminal) 81, wherein, it was held as under:-

“It is too early to conclude whether the Will in question is forged or not. This matter is to be considered by the trial Court after the parties are afforded opportunities to lead evidence in support of their respective claims. Therefore, considering the fact that civil and criminal litigation is already going on between the parties, it is a fit case where anticipatory bail can be granted to the petitioner.”

In the present case, petitioner is the beneficiary as per the Will in question dated 12.01.2007. Although, the Will in question was allegedly executed on 12.01.2007 but was got registered on 31.03.2014. Thus, at the time, when the Will in question was got registered, petitioner was a Major. On the basis of the Will in question, petitioner got the mutation sanctioned in his favour. The allegations levelled against the petitioner are serious in nature. Petitioner might be required for custodial interrogation. In the facts and circumstances of the present case, the judgments relied upon by the learned counsel for the petitioner fail to advance the case of the petitioner.

Hence, no ground for grant of anticipatory bail to the petitioner is made out.

Dismissed.

**(SABINA)
JUDGE**

August 14, 2015
mahavir