

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 244

Criminal Miscellaneous No.M-38853 of 2014 (O & M)

Date of Decision: *May 27, 2015*

Jawahar Lal Chhabra

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

CORAM **HON'BLE MR. JUSTICE JASPAL SINGH**

PRESENT: Mr. A.P.S. Deol, Senior Advocate, with Mr. Aashish Chopra, Advocate, for the petitioner.

Mr. Vikas Chopra, Deputy Advocate General, Haryana, assisted by Mr. Anil Dutt and Mr. Hitesh Sammi, Advocates, for the complainant.

. . .

1. Whether Reports of 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?

. . .

Jaspal Singh, J

1. This is a petition preferred under Section 438 Cr.P.C. by Jawahar Lal Chhabra for grant of pre-arrest bail, feeling apprehension of his arrest in case FIR No.403 dated October 5, 2013 under Sections 419, 420, 467, 468, 471, 120-B IPC, Police Station, City, Sonapat.

2. Contents of FIR, if translated into English, read as under:-

"To: The Superintendent of Police, Sonapat. Subject: Application for initiating immediate Legal Proceedings against (1) Jawahar Lal Chhabra son of Bal Chand Chhabra, resident of House No. A-144, Shivalik Malwia Nagar, New Delhi (2)

Balraj son of Ram Niwas, resident of Village Agwanpur, Tehsil Ghanaur, District Sonapat, presently Director of M/s Akarshak Realtors Pvt. Limited, Okhla Industrial Estate, Phase-III, New Delhi (3) Binder son of Hoshiar Singh, resident of House No. 13/387, Mohalla Kot Sonapat, Tehsil and District Sonapat and others. Sir, the applicant submits as under: (1) That the applicant is permanent resident of Village Kumashpur, Tehsil and District Sonapat and he is law abiding and peace loving citizen. (2) That the applicant and his sister Reena and mother Salochna widow of Dharam Pal are the owners and in possession of 2/5 share of total land measuring 7 kanal 8 marla i.e. 2 kanal 19 marla comprised in khewat No.505 min, khata No. 726 min, Rect. And Killa NO.80/1 situated at Village Kumashpur, Tehsil and District Sonapat. The applicant and Reena Devi were minor in the year 2005 and the applicant Sandeep is still minor. The permission in order to sale the aforesaid land was obtained by the mother of the applicant Smt. Salochna from the court of Learned District Judge, Sonapat on 03.12.2005. That the accused No.1 Jawahar Lal Chhabra got executed on General Power of Attorney from the office of Sub Registrar, Sonapat in favour of M/s Akarshak Realtors Pvt. Limited, Okhla on 02.08.2010 and on the basis of this fake General Power of Attorney, they got obtained the thumb impression by impersonating some other lady in place of the mother of the applicant Smt. Salochna Devi in the office of Sub Registrar whereas, the mother of the applicant Smt. Salochna never appeared in the office of Sub Registrar not put her thumb impressions. The accused No.1 Jawahar Lal Chhabra and accused No.3 Binder in connivance with each other have prepared one fake and bogus General Power of Attorney and on the basis of which, they got registered the sale deed of the aforesaid land in dispute in favour of M/s Akarshak Realtors Pvt. Limited vide wasika No.4262 dated 25.08.2010. The applicant and his mother Smt. Salochna never went to the office of Sub Registrar for the sale of land rather the aforesaid all the accused in connivance with each other, got the aforesaid sale deed registered with regard to the land in dispute on the basis of fake and bogus General Power of Attorney dated 02.08.2010. This all illegal act have been fraudulently done by the accused with malafide intention. (3). That the mother of the applicant Smt. Salochna had died on 02.02.2013 and the date of birth of the applicant is 28.06.1999, date of birth of Preeti 10.05.1993, date of birth of Reena is 01.07.1988 from which, it is crystal clear that at the time of registration of the sale deed, both were minor. (4) That the case which was filed by the mother of the applicant Smt. Salochna in the court of District Judge, Sonapat on which also thumb impressions of Smt. Salochna have been appended and that the General Power of Attorney has been executed in the office of Sub Registrar Punjab which bears the false and fake thumb impressions of Smt. Salochna. In fact, the thumb impressions were there on both the aforesaid documents and the same does not tally with the signatures of Smt. Salochna. It is clear from the above that no General Power of Attorney has been executed by the mother of the applicant Smt. Salochna in favour of anybody. Whether the applicant and his sister have not received any money. (5) That the sister of the applicant namely Reena have been cheated and caused financial loss by all the accused in connivance with the accused and the owners of M/s Akarshak Realtors Pvt. Limited and have executed/prepared all fake documents for the sale of the land. (6) That we came to know about the fake General Power of Attorney and registered sale deed in the month of April 2013. Aggrieved to the aforesaid act, the present application has been given by the applicant against the accused. That both the documents i.e. copies of General Power of Attorney and Registered sale deed and photocopy of the death certificate are enclosed with the application. The accused have caused heavy financial loss to the applicant by committing fraud with them. Therefore, it is requested that strict legal action be taken against the aforesaid accused and justice be done to the applicant. I shall be highly grateful to you.”

3. Contention of learned counsel for the petitioner is that FIR has been got registered by complainant on filing a false complaint with a motive to extract money from the petitioner by pressurising, harassing and humiliating him. Infact,

complainant has intentionally with-held complete and material facts while lodging the instant case.

4. It is an undisputed fact that Smt. Salochana widow of Dharam Pal alongwith her minor children, namely, Preeti, Reena and Sandeep, was joint owner of land measuring 2 kanal 19 marla i.e. $2/5^{\text{th}}$ of land measuring 7 kanal 8 marla comprised in Khewat/Khata No.505/726, Rectangle No.80, Killa No.1 (7-8) situated at village Kamashpur, Tehsil & District Sonapat. On April 19, 2005, Smt. Salochana, on her behalf and on behalf of minor children alongwith her major son Naresh and one Dheer Singh son of Jage Ram, entered into a Collaboration Agreement with M/s Aakarshak Realtors Private Limited, Okhla, a company incorporated in Companies Act, 1956, through the petitioner, who at that point of time, was Director of said company and was authorised vide resolution dated April 12, 2005 in this regard. The aforesaid Collaboration Agreement was executed by aforesaid persons for development of their land including land in question by said company. In pursuance of aforesaid agreement and understanding between the parties, Salochana, being mother and natural guardians of minor children, filed a petition dated August 10, 2005 under Section 8 of the Hindu Minority & Guardianship Act, 1956, in the Court of District Judge, Sonapat seeking permission to sell the share of her minor children. Necessary permission was granted, however, a direction was issued that sale proceeds of the land of minor were to be utilised by their mother and natural guardian Salochana for purchase of some other land in their names, failing which, sale proceeds were to be deposited in Fixed Deposits in the names of minors. Since no land was available to be purchased in the names of minor children, sale consideration of the share of minors was deposited in Fixed Deposits @ ₹ 7.5 lac each in State Bank of Patiala, Murthal

Branch, Murthal. Subsequently, on October 16, 2007, Salochana preferred an application on behalf of minor children for permission to withdraw the amount of Fixed Deposits for purchase of land. Even after execution of Collaboration Agreement, parties applied for license for development of a residential colony which was duly granted by the competent authority in the year 2007. However, in the month of June/July, 2010, M/s Aakarshak Realtors Private Limited sought to get the sale deed executed from Salochana on her behalf and on behalf of her three minor children in its favour. Due to the reason that Salochana being a Parda Nashin lady, a widow and taking care of three minor children, expressed her inability to visit various officers/authorities for sale and mutation etc., and offered to execute General Power of Attorney. Accordingly, Salochana, for herself and for her minor children, executed a General Power of Attorney on August 2, 2010 in favour of M/s Aakarshak Realtors Private Limited, through the petitioner, and/or any other person nominated by the said company. But, at the time of execution of aforesaid power of attorney by Salochana, land in question alongwith some other land became subject matter of acquisition proceedings initiated under the provisions of Land Acquisition Act, 1894. As such, power of attorney was got registered with Sub Registrar, Patti. However, land in question was lateron released from acquisition proceedings in the light of statutory policies framed by the State of Haryana.

5. On the basis of power of attorney dated August 2, 2010 (Annexure P-6), petitioner executed sale deed dated August 25, 2010 (Annexure P-7) in favour of M/s Aakarshak Realtors Private Limited. The recital contained in the sale deed clearly depict that entire sale consideration was paid to Salochana and/or her children through cheques.

6. While concluding his arguments, learned counsel for the petitioner submitted that instant case was got registered with malafide intention to extract money from the petitioner and to put pressure upon him and to cause humiliation. Infact, even for the sake of arguments, it is deemed that General Power of Attorney is a forged and fabricated document, in the given circumstances, petitioner cannot be termed to be either beneficiary or that he has any malafide intention or that he committed cheating or fraud with complainant. He is also ready to join investigation and to abide by the terms & conditions imposed by this Court in case he is granted the concession of bail.

7. On the other hand, learned State counsel as well as counsel for the complainant have ebulliently argued that to achieve his illegal object, petitioner got forged and fabricated power of attorney in the office of Sub Registrar, Patti, District Tarn Taran, by impersonating Salochana and then, on the basis of said fake and forged power of attorney, executed sale deed dated August 25, 2010 in favour of M/s Aakarshak Realtors Private Limited. Neither Salochana belonged to the area of Patti nor she ever resided there. Even the land in question which is subject matter of power of attorney as well as that of sale deed, is located at village Kamashpur, District Sonapat (Haryana). As per report of Hand-writing & Finger Prints Bureau, Madhuban, power of attorney neither bears the signatures of Salochana nor the thumb impression appearing on the above referred forged document. Such a person does not deserve the concession of pre-arrest bail which is otherwise required to be granted in exceptional circumstances.

8. This Court has given an anxious thought to the submissions made by learned counsel for the parties and minutely gone through the record available.

9. It is an undisputed fact that Salochana alongwith her son Naresh and three minor children, was owner to the extent of 2/5th share of total land measuring 7 kanal 8 marla situated at village Kamashpur, District Sonapat. A Collaboration Agreement was also arrived at in between Salochana, on her behalf as well as on behalf of her minor children with M/s Aakarshak Realtors Private Limited. Permission was also granted to Salochana to sell the share of minor children and regarding that an amount of ₹ 7.5 lac each was deposited in Bank in the shape of fixed deposits in their names, but, subsequently, said amount was withdrawn by her.

10. Here, it would be pertinent to mention that Salochana breathed her last on February 2, 2013. Date of birth of complainant – Sandeep is June 28, 1999, date of birth of Preeti is May 10, 1993 and that of Reena is July 1, 1988, from which, it is crystal clear that at the time of registration of sale deed, complainant as well as Preeti were minors whereas Ms. Reena had attained the age of majority. It is also abundantly clear that General Power of Attorney, alleged to have been executed by Salochana on August 2, 2010, neither bears her signature nor thumb impression and is found to be fake and forged one, on the basis of which, petitioner has succeeded in getting the sale deed executed on August 25, 2010 in favour of M/s Aakarshak Realtors Private Limited. Moreover, there is nothing on record to suggest as to why General Power of Attorney has been opted to be executed at Patti, District Tarn Taran, where neither Salochana nor any of her minor children has got any concern or interest, especially, in the circumstances that land belonging to them is located at village Kamashpur, District Sonapat (Haryana). If the sale price of the share of minor children was already paid by M/s Aakarshak Realtors

Private Limited as per terms & conditions of Collaboration Agreement and was deposited in the names of minor children, then what compelled the present petitioner to forge and fabricate the power of attorney, that too, from District Tarn Taran and then, to execute the sale deed in favour of M/s Aakarshak Realtors Private Limited. Moreover, investigation is still in progress.

11. This Court is of the considered view that custodial interrogation of petitioner is necessary to unearth the true facts. Grant of pre-arrest bail, in such a situation, would not only hamper the investigation but also amount to an interference in fair and proper investigation of this case. Thus, in the facts and circumstances narrated above and without expressing any opinion on merits of the case, this Court is of the considered view that it would be in the fitness of things not to exercise extraordinary power for grant of pre-arrest bail.

12. Dismissed.

May 27, 2015
avin

(Jaspal Singh)
Judge