

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

CRM-M No.41030 of 2014 (O&M)

Date of Decision: 17.08.2015

Smt. Rajwati and another

..... Petitioners

Vs.

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. N.S.Shekhawat, Advocate for the petitioners.

Mr. Rajiv Doon, Assistant Advocate General, Haryana
for the respondent.

Mr. Manoj Bajaj, Advocate for the complainant.

JASWANT SINGH, J.

Petitioners-Rajwati and her son-Ajay Pal have preferred the present petition for grant of anticipatory bail in case FIR No.433 dated 17.07.2014, under Sections 406/420, IPC, registered with Police Station Ballabgarh, District Faridabad. The petitioner No.1 is wife of Ranbir Singh, whereas petitioner No.2 is their son. In all, there are five accused. The other accused are Ranbir Singh and his second son-Vijay Pal besides Sanjay son of late Sukhdev Sharma is another accused. All the three remaining accused are on regular bail.

This case was registered on the basis of a complaint given by the complainant-Prem Dutt Sharma, wherein it is alleged that the ownership of the house in question bearing No.414, Sector 9, Faridabad, to the extent of half share was taken away fraudulently and in an illegal manner by the accused persons by hatching a criminal conspiracy.

As per the allegations in the FIR, it is alleged that the house in question, which was earlier owned by Smt. Kailashwati (mother of the complainant and grand-mother of accused Sanjay) was split into two portions by Smt. Kailashwati and half eastern portion fell to the share of the complainant, whereas the other half portion went in favour of Smt. Sumitra, mother of accused-Sanjay, by way of a civil court decree dated 21.01.1999 based on consent. After the decree, the beneficiaries were in the possession of their respective portions. The property, which is in the records of HUDA was desired to be corrected and the certified copy of the decree was given to Sanjay for incorporating the necessary change in ownership.

Accused-Sanjay, however, allegedly did not deposit the same and on the other hand inducted the family of Ranbir Singh as tenants on June 2013, in the portion owned and possessed by the complainant. Initially, the rent was paid but later on allegedly the entire family refused to pay the rent and claimed title and it was allegedly informed that the entire house was sold by Sanjay. The complainant has revealed the transaction in his complaint that initially Sanjay on 10.03.2010 got a sale deed registered in his favour from Smt. Kailashwati. Thereafter, on 10.12.2010, Sanjay further executed agreement to sell in favour of Ranbir Singh and also executed a GPA in his favour on 17.12.2010. The GPA was registered at Kurukshetra. As per the agreement between Sanjay and Ranbir, the transaction was for a consideration of Rs.83,75,000/-. As per the allegations, all the accused persons have forged and fabricated the documents to grab the house of the complainant.

Learned Counsel for the parties have been heard.

Opening the case of the petitioners, it was vehemently argued that the transaction is absolutely *bona fide* for a valid consideration and offence, if any, has been committed by Sanjay alone. It is also projected that the buyers are also victims

at the hands of Sanjay. The mode of transaction between Sanjay and Ranbir and further the final sale deed in favour of Rajwati was highlighted.

The stand of the petitioners is considered and the sequence of events do not at all suggest that the Ranbir and Rajwati were *bona fide* purchasers. Of course, Sanjay firstly grabbed the title of the property not only of the complainant, but at the same time cheats his mother-Sumitra as well. The decree, which has been placed on record by the complainant, shows that Sanjay was a party and, therefore, could not have got this sale deed executed in his own favour from his grand-mother Smt. Kailashwati who is more than 85 years old.

According to the petitioners, the record of the HUDA does not reflect the consequent changes in the ownership pursuant to the decree and, therefore, believing the official record a *bona fide* transaction was entered into with Sanjay. The transaction of transfer of ownership is seriously doubtful and does not appeal to the prudence. Once the entire sale consideration as pleaded by the petitioners was paid to vendor Sanjay on 10.12.2010, it is not understandable as to why instead of sale deed an agreement to sell was executed. Further, on 17.12.2010, GPA is executed by Sanjay in favour of Ranbir i.e. also at Kurukshetra where none of the parties belong or reside and, therefore, this circumstance gives rise to the serious doubts about the validity and genuineness of the documents.

Finally, it was on 18.02.2013, Ranbir executed sale deed in favour of Rajwati and this is how the title is acquired by petitioner No.1. The transaction between Sanjay and Ranbir and Rajwati commenced on 10.12.2010, when the entire payment is made and the possession was also delivered to Ranbir. This stand of taking of possession on 10.12.2010 strongly suggest the conspiracy between the accused persons as after December, 2010, nothing has been shown that the possession of the property in question was with the family of Ranbir including the

petitioners. Whereas on the other hand, the complainant has placed on record enough material in the shape of electricity bills, telephone bills etc. and also the various agreements with the telecom companies who have installed cellular towers and allied equipments at the house in question, which have been renewed. Therefore, the stand of possession taken on 10.12.2010 is not believable. Since, petitioner No.1 is the beneficiary and appears to have actively participated in the transaction along with her husband in connivance with Sanjay and, therefore, does not deserve the concession of pre-arrest bail. Her prayer is declined.

As far as petitioner No.2 is concerned, no specific attribution is there except that allegedly initially, the house in question was taken on rent by him along with his brother. Therefore, this Court finds that petitioner No.2 who is stated to be a student has made out a case for grant of anticipatory bail. The petition qua him is allowed and interim order dated 03.12.2014 qua him is made absolute.

The observations made in this order shall have no bearing on the merits of the case.

Disposed of in the above terms.

August 17, 2015

Gagan

**(JASWANT SINGH)
JUDGE**