

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 10538 of 2016
Date of decision: 18.5.2016

Jeet Singh and anr

Petitioners

vs.

State of Punjab

Respondent

Present: Mr. PS Ahluwalia, Advocate.
Ms. HKAthwal, DAG, Punjab
Mr. GS Kaura, Advocate.

M.M.S.BEDI,J.

This order will dispose of two petitions for pre-arrest bail, one filed by Jeet Singh and anr (CRM M 10538 of 2016) and the second filed by Tejinder Kaur (CRM M 9029 of 2016).

Petitioner Tejinder Kaur had purchased property from Kulwinder Singh son of Paramjit Kaur on 10.1.2012. The said property has been further sold to Baljinder Kaur on 18.7.2014 by way of registered sale deed. The case of the prosecution, registered at the instance of Apanjit Kaur, is that she has three sisters, namely, Avtar Kaur, Paramjit Kaur and Rupinder Kaur. Avtar Kaur was unmarried and she used to take care of her father Ujjagar Singh, who suffered a decree in favour of Avtar Kaur regarding the property owned by him. After the death of Ujjagar Singh, one of the sisters, namely, Paramjit Kaur, filed a suit claiming share in the property but later on she had withdrawn the said suit and had allegedly committed the murder of Avtar Kaur, as a result of which criminal case was registered against her. She was convicted in the murder case for life.

Mutation of 11 acres of land was sanctioned in favour of Apanjit Kaur and other sister Rupinder Kaur but since it was in possession of Paramjit Kaur and her son Kulwinder Singh, a suit for possession and title was filed in the civil court. The allegation against Paramjit Kaur is that she had transferred the house of her father in the name of her son Kulwinder Kaur. Kulwinder Singh has further sold the property to petitioner Tejinder Kaur. The said property has now been transferred to Baljinder Kaur. It is pertinent to observe here that the criminal liability is sought to be foisted against the petitioners solely on the basis of sale of residential house, originally owned by Ujjagar Singh.

Counsel for the petitioners has vehemently contended that the petitioners are bona fide purchasers, having purchased the house of Ujjagar Singh from Kulwinder Singh on payment of sale consideration of Rs. 20 lacs. A sum of Rs.17.50 lacs has been paid by way of bank draft. The amount of sale consideration was paid by obtaining loan from Axis Bank. Petitioner Tejinder Kaur has further sold the house to Baljinder Kaur. Baljinder Kaur also claims that she has purchased the property after obtaining loan from State Bank of Patiala.

Counsel for the complainant has vehemently urged that all the petitioners have connived with Kulwinder Singh and Paramjit Kaur. It has been argued that petition of Paramjit Kaur for pre-arrest bail has been dismissed by this court.

Counsel for the petitioners has urged that in view of the fact that Kulwinder Singh, predecessor-in-interest of the petitioner Tejinder Kaur and Baljinder Kaur, having been granted the concession of pre-arrest bail, on the principle of parity, the petitioners can be granted the same relief .

On asking of the court, counsel for the complainant informs

that no civil litigation pertaining to the ownership or share of the complainant or any of her sisters is pending in any civil court. Counsel further submits that he is not aware about any civil litigation pertaining to the ownership of the house.

After hearing learned counsel for the parties, it appears that main accused Paramjit Kaur, who had allegedly transferred the house of Ujjagar Singh, has been declined the concession of pre-arrest bail but Kulwinder Singh, her son, who had transferred the house further, has been granted the concession of pre-arrest bail by this court. Whether the petitioners are bona fide purchasers or they connived with the main accused or they conspired in the act of grabbing the share of other co-owners of the property, is not to be adjudicated upon in the criminal litigation. It is always open to a person, who has been cheated to lodge an FIR if cloud has been cast on the right of a co-owner. It is always open to the co-owner to claim right, title or interest in the property by seeking possession or partition, in accordance with law. Without prejudice to the right of the complainant to seek right, title or interest in the property in dispute and without expression of any opinion whether the petitioners are bona fide purchasers, the petitioners can be granted the concession of pre-arrest bail as the case of the prosecution, so far as the petitioners are concerned, depends upon the documentary evidence, which documents have already been taken into possession by the investigating agency. In case any documents are required, the petitioners would be required to provide the said documents to the investigating agency.

Accordingly, both the petitions are allowed and it is ordered that in case of arrest of the petitioners, they will be released on bail to the satisfaction of the arresting officer subject to the condition that they will

join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation. The petitioners will provide the documents, which are necessary for the fair investigation of the case.

Nothing said in this order will prejudice the rights of the heirs of Ujjagar Singh to claim right, title or interest in the property by establishing the civil rights, in accordance with law, challenging the subsequent alienation.

May 18 ,2016
TSM

(M.M.S.BEDI)
JUDGE