

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

Criminal Misc. No.M-18739 of 2016

Date of Decision: May 27, 2016

Satish Kumar son of Shri Sohan Lal

.....Petitioner

Versus

UT Chandigarh

.....Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.BS Jaswal, Advocate for the petitioner.



TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 438 of the Code of Criminal Procedure seeking concession of pre-arrest bail to the petitioner in case FIR No.93 dated 14.3.2016, under Sections 447, 420 of the Indian Penal Code, Police Station Sector 31, Chandigarh.

2. Learned counsel for the petitioner has been heard at length.

3. Briefly noticed that FIR came to be registered on the statement of Bimla Gupta stating that in the year 1997, her husband (since deceased) had purchased land measuring 2.5 Biswas. Subsequently, the family shifted to Faridabad and it is only during a recent visit to Chandigarh that she became aware that the present petitioner, in connivance with other co-accused, had encroached upon the land in question and had also raised construction thereupon.

4. During the course of arguments today, it has gone

uncontroverted that co-accused Sohan Lal claiming himself to be GPA vide registered GPA dated 23.4.1998 of two co-sharers, namely, Smt.Karnail Kaur and Smt.Bhupinder Kaur had sold the land measuring 2.5 Biswas comprising khasra No.133/1/2 in favour of another co-accused, namely, Jaswant Kaur vide registered sale-deed dated 28.5.2009 mentioning specific boundaries therein. Sohan Lal and Jaswant Kaur are none other than the father and wife of the present petitioner.

5. Allegations levelled by the complainant are that the land sold vide registered sale-deed dated 28.5.2009 pertains to the land in dispute.

6. In para 13 of the sale-deed dated 28.5.2009 executed by co-accused Sohan Lal on the strength of GPA and in favour of Jaswant Kaur i.e. wife of the present petitioner, it has been specifically recited that the executant of the power of attorney is still alive. Learned counsel would concede that Karnail Kaur who had executed the General Power of Attorney, had, in fact, died on 19.8.2007 i.e. prior in point of time. Such admission is a clear pointer towards a sale-deed having been executed on the strength of a Power of Attorney of a dead person.

7. It is the pleaded case of the petitioner himself in the instant petition that while giving out the property details in the sale-deed that was executed, khasra No.133/1/2 has been mentioned instead of khasra No.133/2/1. Curiously, till date no application has been preferred by the accused party seeking rectification of such mistake which is otherwise claimed to be inadvertent and bonafide.

8. There are two other aspects of the matter as well. The GPA that was executed on 23.4.1998 in favour of Sohan Lal pertaining to land measuring 4-1/2 Biswas was without specifying the dimensions and

boundaries. However, in the sale-deed registered on 28.5.2009 by Sohan Lal on the strength of GPA and in favour of Jaswant Kaur i.e. wife of the petitioner, specific dimensions and boundaries have been mentioned. Furthermore, it is the precise allegations made by the complainant that on page 2 of the sale-deed dated 28.5.2009, the description of the plot of 2.25 Biswas is totally wrong as there is no such plot in village Hallo Majra having property of Ajit Singh, Lilawati, Banarsi Dass on its sides.

9. The allegations, in a nut-shell, are with regard to grabbing of property, playing fraud, criminal trespass. The allegations are specific and serious in nature.

10. Concededly, the present petitioner is a Councilor in the Ruling Party. The possibility of the petitioner exercising his influence to hamper the course of a free and impartial investigation cannot be ruled out.

11. This Court is not inclined to extend in favour of the petitioner the concession of pre-arrest bail.

12. Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

May 27, 2016
SRM

Note: Whether referred to Reporter? (Yes/No)