

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-20775 of 2016

Date of decision : August 02, 2016

Harjinder Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Yogesh Goel, Advocate, for the petitioner
Mr. C.S.Brar, DAG, Punjab, for the respondent

Fateh Deep Singh, J. (Oral)

The allegations against present petitioner Harjinder Singh in this anticipatory bail under section 438 of the Code of Criminal Procedure are that one Dev Raj Arora complainant moved an application to the police that he was owner of plots No. 94/A and 94 measuring 128.8 sq. yards and 256.2 sq. yards respectively, situated in village Daad now within the City Ludhiana which he along with his co-brother Parmod Kumar Batra had purchased through sale deeds no. 8899 dated 9.6.1995 and no. 9000 dated 9.6.1995 of which complainant became the absolute owner. It is thereafter it is transpired that accused in connivance with each other deceptively and

fraudulently mutated this plot in the name of Kartar Singh through sale deed dated 8597 dated 20.5.1994 for which mutation No. 20257 was sanctioned, in which accused Kartar Singh, Gurjit Kumar impersonated and were identified by Bagail Singh Numberdar and Palvinder Singh Taggar Councilor and that on the basis of which sale deed and subsequent mutation, Kartar Singh transferred this plot in the name of Surjit Singh through sale deed No. 5379 dated 10.10.2014 by impersonating and with the connivance of Gurjit Kumar Jagir Singh and Numberdar Baghail Singh and which Harjinder Singh purchased and then sold the same to Surjit Singh for a sum of Rs 53 lacs.

Learned counsel for the petitioner submits that there is no specific allegation against the petitioner for having either impersonated, conspired or acted in a fraudulent manner and he is in fact bonafide purchaser for valuable consideration.

On behalf of learned State counsel much resistance has been offered and it is contended that since in the light of the offence of cheating and impersonation necessitates custodial interrogation to unearth the entire gamut of this nexus.

Appreciating the submission apparently one comes across that after the complainant became absolute owner of these plots, the principal accused Kartar Singh, Gurjit Kumar, Jagir Singh, Numberdar Baghail Singh and Palvinder Singh Taggar, Councilor have through impersonation, forgery and deceit have sold this property through sale deed dated 20.5.1994

and subsequent all transactions appears to be by the subsequent purchasers/sellers unaware of what has earlier transpired. Keeping in view that there is no evidence as has been conceded by State against Harjinder Singh petitioner for impersonation and having acted in a malafide manner and having sold the property for profit that too after so many years does not clothes it with fraud nor there is any criminality and nothing is to be recovered from the petitioner. His joining the investigation will suffice the matter as the entire investigation is based on documents and sending the petitioner to custody shall be traversity of justice.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

August 02, 2016
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No