

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-22677 of 2015

Date of Decision: March 21, 2016

Sanjay

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Ms. Deepshikha Chauhan, Advocate
for the petitioner.

Mr. C.S. Bakshi, Addl.A.G., Haryana.

Mr. J.K. Goel, Advocate for the complainant.

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M.M.S. BEDI, J.

Petitioner seeks the concession of pre-arrest bail in case FIR No. 162 dated May 11, 2015, under Sections 419, 420, 467, 468, 471, 120B IPC, Police Station Pundri, District Kaithal, registered at the instance of Babita alleging that a fraud had been committed on her as her deceased husband Pawan Kumar Gill who was owner of the ancestral property alongwith his real brothers Rambir Gill and Sushil Kumar Gill but relinquishment deed dated February 22, 2011 was got prepared by

impersonation waiving all the rights in the property with corresponding vesting of the same in the mother-in-law of the complainant. The grievance of the complainant is that her mother-in-law, brothers-in-law and their wives have fraudulently prepared fake documents to grab the share of her husband.

So far as petitioner is concerned, the specific allegation against him is that he impersonated the husband of the complainant at the time of registration of the release deed of the ancestral property.

Counsel for the petitioner has vehemently contended that the petitioner is neither a beneficiary nor he has derived any title in the property. It has been claimed that the prosecution agency has not till date arrived at the conclusion that the photograph on the relinquishment deed purported to be that of Pawan Kumar is that of petitioner.

The investigating officer present in the Court had made available a copy of the relinquishment deed and informs that the photograph on the relinquishment deed is smudged and the said document had been sent to FSL, Madhuban. A report is still awaited.

Counsel for the complainant has intervened to oppose the petition for bail alongwith State counsel. Both of them have urged that the petitioner has admitted that he appeared in place of Pawan Kumar at the time of preparation of relinquishment deed before the Sub Registrar without any intention to commit any act of cheating with anyone. The investigating officer has stated that after joining investigation, pursuant to the interim

orders passed by this Court, the role played by the petitioner has become clear.

With the assistance of investigating officer, I have gone through the statement of the petitioner. He is alleged to have stated by joining investigation that he was persuaded under misrepresentation to appear before the Sub Registrar at the instance of his co-accused Rambir Gill and Sushil Kumar Gil. He has further stated that the mother of Pawan Kumar Gill, Rambir Gill and Sushil Kumar Gill had later on given the property to all the three brothers equally. It is also not out of place to observe here that the complainant has also filed a suit for declaration that her husband Pawan Kumar was owner in possession of 1/4th share of the 115 kanals 14 marlas of the land which was originally owned by Anant Ram, father-in-law of the complainant. The mutation of inheritance of Anant Ram was sanctioned in favour of Banti Devi, Kusum Lata, Krishna, Suman Devi, Rambir, Pawan Kumar and Sushil Kumar on February 25, 2003. The daughters of Anant Ram had relinquished their share to the extent of 3/28th share by way of a registered release deed dated February 25, 2003. Pawan Kumar had expired on January 16, 2015 on duty. He was in possession of his share. A forged release deed dated February 22, 2011 in favour of Banti Devi had been prepared by impersonation. The validity of the said release deed has been challenged by the complainant. The matter is pending before the civil Court. Though the allegations against the petitioner of impersonation affecting the rights of Pawan Kumar, the husband of the complainant, are serious but in

view of the fair stand taken by him by joining investigation that he was made to appear before Sub Registrar in the year 2011 and to sign documents and that he does not claim any right, title and interest in the property, it does not appear to be a case of custodial interrogation. The petitioner having joined investigation, in view of the above circumstances, can be granted the concession of pre-arrest bail.

The petition is allowed and it is ordered that in case of arrest of the petitioner he will be released on bail to the satisfaction of the arresting officer subject to the conditions that he will join investigation as and when required by the police, he will not tamper with the evidence or hamper the investigation in any manner and that he will not claim any right, title or interest in the property for himself or any of his kith and kin as undertaken by him during the course of investigation. In case of violation of any of the conditions, it will be open to the complainant to seek the cancellation of bail.

March 21, 2016
sanjay

(M.M.S.BEDI)
JUDGE