

CRM-M-26586-2015 (O&M)

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

**CRM-M-26586-2015 (O&M).
Decided on: February 2, 2016.**

Davinder Singh and others

..... Petitioner(s)

Versus

State of U.T. Chandigarh

..... Respondent(s)

*** * ***

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

**PRESENT Mr.H.S.Bhullar, Advocate,
for the petitioners.**

Mr.Rajeev Sharma, Addl. P.P. U.T. Chandigarh.

**Mr.Terminder Singh, Advocate,
for the complainant.**

M.M.S. BEDI, J (ORAL).

Petitioners seek concession of pre-arrest bail in a case registered at the instance of Anita Arora alleging that her husband Pamy Jatinder Singh Arora who is resident of USA and owns land measuring 19 bighas 15 biswas in Punjab. He has appointed his father Arjun Singh as his general power of attorney for managing the property and also gave him right to contest all the suits relating to land.

After the death of Arjun Singh on 23.2.1997, the general power of attorney was given in favour of petitioner No.3 Satinder Singh Arora, brother, who was representing the husband of

CRM-M-26586-2015 (O&M)

the complainant in different litigation pending in the Court as general power of attorney. Petitioner No.3 has allegedly got signatures of his brother Pamy Jatinder Singh Arora on blank papers on the pretext of filing documents in civil litigation and prepared and forged a declaration deed dated 7.3.1994 in his favour and also created forged and fabricated Will of his father dated 26.2.1993. The complainant has alleged that after coming to know about the intentions of petitioner No.3, Jatinder Singh Arora, the general power of attorney dated 6.4.2005 was withdrawn. It is an admitted fact that a civil suit has been filed by petitioner No.3 claiming his rights on the basis of declaration deed dated 7.3.1994 and unregistered Will dated 26.2.1993.

State counsel has argued that though the petitioners have joined investigation but the original Will dated 26.2.1993 and the declaration deed dated 7.3.1994 have not been produced before the Investigating Officer.

Counsel for the complainant has also intervened to oppose the application for pre-arrest bail contending that the intention to cheat, attributed to petitioner No.3, is apparent from his conduct where he has admitted in recorded conversation in the year 2014, he being not the owner of the property and that the mother of petitioner No.3 has also admitted that no Will had been executed in favour of petitioner No.3. The conduct of petitioner No.3 of having filed a civil suit in connivance with petitioner Nos.1 & 2 who are

CRM-M-26586-2015 (O&M)

related to petitioner No.3 as his father-in-law and close friend to grab the property of the husband of complainant who happens to be an NRI, the application for pre-arrest bail should be dismissed.

I have heard the counsel for the petitioners, counsel for the complainant as well as the State counsel.

It is an admitted fact that the litigation pertaining to the authenticity of the unregistered Will dated 26.2.1993 and the declaration deed dated 7.3.1994, are sub judice before the Civil Court regarding the property which is situated in Punjab, in the Court of Civil Judge, Derabassi,. The inheritance of property of Arjun Singh father of petitioner No.3 on the basis of Will is also sub judice.

Counsel for the complainant has submitted that the property is in the name of Pamy Jatinder Singh Arora, the husband of the complainant and till date neither any mutation has been sanctioned on the basis of declaration nor the possession has been delivered to any of the petitioners. As the right, title and interest of the husband of the complainant had been undisturbed till date and the claim of Satinder Singh Arora on the basis of declaration and Will being sub judice, it does not appear to be a case of custodial interrogation. The petitioners have joined investigation

The petition is allowed. 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 following conditions:-

CRM-M-26586-2015 (O&M)

i) that the petitioners will join investigation as and when required; and

ii) that the petitioners will make available the original document i.e. unregistered Will dated 26.2.1993 and the declaration deed dated 7.3.1994 as and when required by the Investigating Officer in case these have not been produced in the civil court in original.

In case of violation of any of the conditions, it will be open to the complainant or the prosecution agency to seek cancellation of the bail. The petitioners will make available their voice samples within the parameters of their constitutional rights. It is also observed that it will be the responsibility of the Investigating Agency to see that the original documents are protected and not tampered with during the course of investigation. The petitioners will not make any attempt to tamper with the evidence or threaten the witnesses, in any manner.

February 2, 2016.
rka

(M.M.S. BEDI)
JUDGE