

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

Cr. Misc. M 33879 of 2016

Date of decision: 5.12.20216

Bikkar Singh

Petitioner

vs.

State of Punjab

Respondent

Present: Mr. MJS Bedi, Advocate.
Ms. HK Athwal, DAG, Punjab
Mr. Deepak Gupta, Advocate.

M.M.S.BEDI,J.

The petitioner along with his brother had filed a civil suit on 26.5.1992 pleading therein that Bhag Singh, Kaka singh, Gamdoor Singh and Inder Singh had died by the time the civil suit was filed but Gamdoor Singh, Inder singh and Kaka Singh had died in the years 1999,1997 and 2003, respectively, as such, they being alive at the time of passing of the decree and having not been impleaded as party , had been obtained by the petitioner fraudulently.

Counsel for the petitioner submits that the subject matter of the decree by the civil court is still sub judice and civil suit is still pending.

The petition has been opposed by the learned State counsel.

I have heard counsel for the parties and gone through the record, which indicates that in civil suit No. 907 of 2013, the decree obtained by fraud by the petitioner has been challenged by the legal heirs of Inder Singh and others. I have also considered the contention of counsel for the petitioner that the ex-parte decree had been passed after service of all the defendants impleaded in the civil suit. The perusal of the record further indicates that by impleading live persons, showing them dead and

by obtaining an ex-parte decree against them, the petitioner has caused wrongful loss to the complainant and wrongful gain to himself. Mere pendency of the application for setting aside the ex-parte decree will not ipso fact absolve the petitioner of the criminal liability. The circumstances of the case indicate that it is a case of combination of civil and criminal liability. The petitioner apparently has not only committed fraud with the opposite party but with the court as well, which is abuse of the process of the court.

Taking into consideration the totality of the circumstances, I do not find any extra ordinary exceptional circumstance to grant the concession of pre-arrest bail to the petitioner.

Counsel for the petitioner submits that the petitioner is more than 82 years of age. The factum of petitioner being an old man may constitute a good ground for grant of regular bail to the petitioner but no extra ordinary exceptional circumstances exist to grant him the concession of pre-arrest bail.

Dismissed.

Nothing said in this order will prejudice the right of the petitioner to seek the concession of regular bail, in accordance with law.

December 5 ,2016
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No