

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

CRM No. M-9850 of of 2016 (O&M)

Date of Decision: 27.04.2016

Charanjit Kaur

...Petitioner

Versus

State of Punjab and another

... Respondents

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

Present:- Mr. Ashok Giri, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA. J (ORAL)

The instant petition has been filed under Section 439 (2) Cr.P.C. seeking cancellation of anticipatory bail granted to respondent No.2, namely, Gurjant Singh in case FIR No.06 dated 23.01.2016, under Sections 167/417/465/467/468/471/120-B of Indian Penal Code, registered at Police Station Amloh, District Fatehgarh Sahib.

It may be briefly noticed that FIR in question came to be registered on the complaint of Charanjit Kaur/present petitioner. Complainant had asserted that she was the owner of a plot of land within the lal lakir of the village, the same having been inherited from her father. Allegations were that in the year, 2015 she became aware that respondent No.2 Gurjant Singh in connivance with one Karnail Singh, Harkesh Kumar and Kuldeep Singh had got the sale deed registered on 17.02.2012 in respect of plot which actually belonged

to her. It was alleged that co-accused Karnail Singh could not have got sale deed registered of such piece of land in favour of Gurjant Singh/respondent No.2 as he was not the owner of the same. Complainant alleged that it was a fake and forged sale deed.

Admittedly, respondent No.2 was granted concession of interim anticipatory bail vide order dated 19.02.2016 and thereafter such concession was made absolute vide order dated 29.02.2016 passed by the learned Additional Sessions Judge, Fatehgarh Sahib.

Counsel appearing for the petitioner/complainant while seeking cancellation of concession of anticipatory bail granted to respondent No.2 has raised one solitary submission. It has been argued that while passing the order dated 19.02.2016 granting ad interim anticipatory bail, the Court had erred and proceeded on a factually wrongful premise that the complainant Charanjit Kaur had filed a civil suit against respondent No.2 Gurjant Singh as also co-accused Karnail Singh and the same having been decided on 17.02.2012. Counsel would advert to the order dated 17.02.2012 passed by the Additional Civil Judge (Senior Division), Amloh and placed on record at Annexure P-3 to submit that the suit for specific performance had been filed by respondent No.2 and in which co-accused Karnail Singh and one Gurmeet Singh had been arrayed as party defendants. It is submitted that such suit had not been filed by the complainant and as such on the basis of wrong facts portrayed by respondent No.2 he had secured an order of interim anticipatory bail and which thereafter was confirmed on 29.02.2016.

Having heard counsel for the petitioner at length and

upon perusal of the pleadings on record, this Court is of the considered view that the present petition merits dismissal.

Even though counsel appearing for the complainant/petitioner is correct in submitting that civil suit No.180 of 07.09.2011 decided on 17.02.2012 was not filed by Charanjit Kaur and as such has been recorded while granting ad interim anticipatory bail by the Court below in the order dated 19.02.2016 yet it would not be a sufficient basis to upset the order dated 29.02.2016 passed by the learned Additional Sessions Judge, Fatehgarh Sahib whereby concession of anticipatory bail has been granted to respondent No.2.

During the course of arguments, it has gone uncontroverted that three civil proceedings emanated in respect of the plot in question regarding which FIR had been got registered by the complainant. Civil Suit No.180 of 07.09.2011 was instituted by accused/respondent No.2 herein i.e. suit for specific performance of an agreement to sell dated 30.07.2011 and against co-accused Karnail Singh and one Gurmeet Singh. Respondent No.2 Gurjant Singh also filed a civil suit No.90 of 12.05.2012 against Gurmeet Singh i.e. brother of co-accused Karnail Singh for grant of permanent injunction for restraining him from interfering into the peaceful possession of the suit property i.e. a plot which is a subject matter of allegations leading to the registration of FIR at the hands of the complainant/present petitioner. Concededly, the complainant/petitioner herself has filed a civil suit bearing No.272 on 09.10.2015 against respondent No.2 and co-accused Karnail Singh seeking a declaration that the sale deed No.2460 of 17.02.2012

executed by Karnail Singh in favour of Gurjant Singh/respondent No.2 is wrong, illegal, unlawful, null and void being without consideration.

As such there is civil litigation pending at the hands of the complainant herself in respect of the plot in question.

Concededly, respondent No.2 has joined investigation and the relevant documents are in the possession of the Investigating Agency.

Merely because the Court below had wrongfully observed that a civil suit had been instituted by the complainant even though factually that was a suit filed by respondent No.2 seeking specific performance of a contract, it would not be a sufficient ground to deny to respondent No.2 the concession of anticipatory bail.

For the reasons recorded above, present petition is dismissed.

27.04.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**