Sr. No.217

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

**CRM No. M-10351 of 2017 (O&M)
Date of Decision:06.04.2017**

Satpal Singh

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Ms. Harpreet K. Athwal, DAG, Punjab.

Mr. Abhay Gupta, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant petition has been filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner in case FIR No.67 dated 31.03.2016, under Sections 420/120-B IPC (Section 467/468 IPC added later on), registered at Police Station Samrala, District Ludhiana.

Complainant is none other than the son-in-law of the present petitioner. Allegations in a nutshell are that the petitioner on the strength of certain forged and fabricated documents including a special power of attorney has transferred the estate of the complainant/immovable property in the name of his daughter, namely, Tarandeep Kaur.

Having heard counsel for the parties, this Court is of the considered view that the petitioner is not entitled to the benefit of regular bail.

Such view is being taken in the light of the conduct of the petitioner.

In this regard, it would be apposite to refer to an order dated 01.06.2016 passed by a coordinate Bench of this Court in CRM No.M-17214 of 2016 i.e. petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the present petitioner in the instant FIR. The concession of pre-arrest bail was declined vide order dated 01.06.2016 and in the following terms:-

> "*Petitioner seeks concession of pre-arrest bail in a case registered at the instance of son-in-law, Randhir Singh, of the petitioner, alleging that the petitioner has transferred the land belonging to the complainant in the name of his family members, i.e., the wife of the complainant, in a fraudulent manner on the basis of a power of attorney which has been executed in favour of the petitioner by the complainant.*
>
> *Learned counsel for the petitioner has vehemently contended that the daughter of the petitioner, namely Tarandeep Kaur, was married to the complainant and the complainant had executed a power of attorney dated 23.09.2014 in favour of the petitioner authorizing him to change the ownership of the property mentioned in the power of attorney in the name of Tarandeep Kaur or two sons or brother Balbir Singh or any other person in any manner and to execute and get the documents registered by appearing before the concerned authority. The petitioner has sold the property vide sale deed dated 11.01.2015 in the capacity as attorney of Randhir Singh, complainant, in the name of his daughter, Tarandeep Kaur, for a sale consideration of Rs.2,30,55,000/-.*
>
> *Learned counsel for the petitioner has submitted that wife of complainant, Tarandeep Kaur, has been granted divorce by the Court in America. It had been agreed on 31.12.2014 that the property of the complainant in America as well as in India will be transferred in the name of Tarandeep Kaur. Reliance has been placed on the decree of divorce*

Annexure-P2 wherein it is mentioned that parties agree to give their real estate assets and business assets in United States and in India to Tarandeep Kaur. The relevant portion of the decree of divorce reads as follows:-

> *8. "That the parties have agreed to give all of their real estate assets and business assets in the United States and in India to plaintiff to allow plaintiff to be able to make a reasonable income or sell the substantial assets as necessary to ensure proper support for the parties' children allowing plaintiff to comfortably agree defendant will not have to pay any monthly child support since the parties' children will be comfortably supported by the plaintiff utilizing the parties' businesses and assets."*

Learned counsel for the petitioner has submitted that in view of said observation of the Court, the property of the complainant in India had to be transferred to Tarandeep Kaur.

I have heard learned counsel for the petitioner and counsel for the complainant and carefully gone through the facts and circumstances of the case. It is a fact that the general power of attorney was executed by the complainant, in favour of the petitioner on 23.09.2014 to alienate the property. The property was transferred, in the name of Tarandeep Kaur, by way of sale deed indicating that a sale consideration of Rs.2,30,55,000/- had been paid to the general power of attorney holder, i.e., the petitioner. The decree of divorce passed by USA Court is dated 31.12.2014. A perusal of the contents of the decree, reproduced hereinabove, indicate that the implication of the order of USA Court was that both the parties, i.e., Tarandeep Kaur and Randhir Singh Dhillon, complainant, had agreed to give all their real estate assets and business assets in USA and in India to Tarandeep Kaur to allow her to be able to make reasonable income or sell the *substantial assets to ensure proper support for the children of the parties. The decree was meant for the welfare of two children, born out of the wedlock of the complainant and his wife, Tarandeep Kaur.*

The stand of the petitioner that the power of attorney has been executed on 23.09.2014 with an objective to implement the decree dated 31.12.2014, is on the face of it is wrong, as at the time of execution of the general power of attorney the divorce decree dated 31.12.2014 had not come into existence. The role of the petitioner in execution of the sale deed is a clear indication of misuse of the power of attorney and transferring the property to his daughter by virtue of a sale deed which is stated to be for consideration. No extraordinary exceptional circumstances exist to grant the concession of regular bail to the petitioner.

Dismissed without prejudice to the right of the petitioner to seek concession of pre-arrest bail. Interim order earlier passed is hereby vacated.

Nothing said in this order will prejudice the rights of the complainant and his wife to implement the directions of the matrimonial Court of USA.

Learned counsel for the petitioner, at this stage, states that the daughter of the petitioner would come to India and get the sale deed cancelled and transfer the property in the name of the complainant. In case of any such eventuality, it will be open to the petitioner to approach this Court again for any relief."

During the course of arguments, it has gone uncontroverted that the daughter of the petitioner has not taken any steps as per statement made by counsel appearing for the petitioner as regards getting the sale deed cancelled and for getting the property transferred in the name of the complainant.

Mr. R.K.Gupta, learned counsel for the petitioner would strenuously urge that such statement had been got recorded by the then counsel representing the petitioner without due authorization and rather he had exceeded his brief.

Such submission does not inspire any confidence. The order in question was passed on 01.06.2016. This Court would see no impediment as regards the petitioner having moved an appropriate application thereafter for clarification and modification of the order dated 01.06.2016 by bringing it to the notice of the Court that such undertaking was never authorized. No such application has been filed till date.

It is a case where the petitioner had furnished an undertaking before this Court to seek relief in future but has not complied with the same.

The conduct of the petitioner dis-entitles him from the benefit of bail.

Petition dismissed.

06.04.2017 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes

Whether Reportable No