

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-22014-2017

Darbara Singh and another Petitioners

Versus

State of Punjab Respondent

2. CRM-M-22024-2017

Amarjit Singh Petitioner

Versus

State of Punjab Respondent

Date of decision :18.09.2017

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. R.S. Sekhon, Advocate
for the petitioners (in both the petitions).

Ms. Malvika Singh, AAG, Punjab (in both the petitions).

H.S. MADAAN, J.

By this order, I shall dispose of two petitions for grant of pre-arrest bail i.e. CRM-M-22014-2017 filed by petitioners - Darbara Singh

and Swaran Singh, whereas **CRM-M-22024-2017** filed by petitioner - Amarjit Singh being accused in FIR No.58 dated 22.05.2017 under Sections 420/465/468/120-B IPC, registered at Police Station Lakho Ke Behram, who are attesting witnesses and beneficiary of the Will, which is said to have been forged by petitioner – Amarjit Singh in connivance with petitioners – Darbara Singh and Swaran Singh.

Briefly stated facts as per prosecution version are that criminal machinery in this case was set into motion by complainant – Manbir Kaur widow of Sukhraj Singh resident of Street No.18, House No.7, Basti Tekkan Wali, Ferozepur City, who inter alia stated that her brother-in-law Amarjit Singh in connivance with scribe Lakhwinder Pal and attesting witnesses Darbara Singh and Swaran Singh had prepared a forged and fabricated Will with regard to property of her deceased husband Sukhraj Singh; that when Sukhraj Singh had expired the petitioners had full knowledge regarding death of Sukhraj Singh but even then they had fabricated the Will; that the Will was produced before the SDM, who had held that it was not a genuine document though appeal against this order is pending before the Deputy Commissioner, Ferozepur.

Apprehending their arrest in this case, the petitioners approached the Court of Addl. Sessions Judge, Ferozepur for grant of pre-arrest bail, however, said applications were dismissed vide her orders dated 05.06.2017 & 07.06.2017 respectively, as such, they have knocked at the door of this Court seeking similar relief, notice of the petitions for grant of

pre-arrest bail filed by the petitioners before this Court was given to the State, which has put in appearance and complainant has also put in appearance through his counsel Mr. Jatinder Pal Singh by filing his power of attorney, which is taken on record.

After hearing learned counsel for the parties, besides, going through the record, I find that there is absolutely no ground to grant concession of pre-arrest bail to the petitioners.

Learned counsel for the petitioners has contended that the Will is said to have been forged by Amarjit Singh is there on the record of Deputy Commissioner, Ferozepur where appeal regarding sanctioning of the mutation is pending. The original Will is also to be taken into possession and during the period of interim bail they had joined the investigation and no recovery is to be effected from them. The petitioners have not committed any crime, the complainant had lodged a false FIR against them, as such, pre-arrest bail be granted to them.

Learned State counsel and learned counsel for the complainant have vehemently opposed the request contending that being aware of death of Sukhraj – husband of the complainant, petitioner – Amarjit Singh in order to grab the share in agricultural land of Sukhraj had forged a Will purported to have been executed by Sukhraj Singh. He himself happened to be beneficiary of the Will was scribed by Lakhwinder Singh attested by Darbara Singh and Swaran Singh, although they were fully aware of death of Sukraj Singh. The original Will is also yet to be recovered, therefore,

custodial interrogation of such petitioners is required.

I on my part find that the allegations against the petitioners are very grave and serious i.e. of forging and fabricating the Will purported to have been executed by a person who has already died just to deprive widow and children of that unfortunate man from inheriting such landed property. I find that the allegations are very serious and grave, custodial interrogation is required to find out as to how and under what circumstances conspiracy to forge and fabricated Will of Sukhraj was hatched and the role of each of the petitioners therein.

In a citation **State Represented by the C.B.I. vs. Anil Sharma, 1997(4) RCR (Criminal) 268**, it was observed that *custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.*

At this stage question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being mere elicitation-oriented, result in the extraction of the important information from mouth of a criminal. Custodial interrogation of the petitioners are necessary for proper and effective investigation. In case such custodial interrogation is denied to the

investigating agency, that will leave many loose ends and loopholes, adversely affecting the investigation which is uncalled for. Thus finding no merit in the petition, the same stands dismissed.

18.09.2017
Gaurav Sorot

(H.S. MADAAN)
JUDGE

- 1. Whether reportable? No
- 2. Whether speaking / reasoned? Yes