

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

**Crl. Misc. No.M-22925 of 2014 (O&M)
Date of Decision: May 18, 2017**

Bhupinder Jeet Singh Ahluwalia and others

.....PETITIONER(s).

VERSUS

State of U.T. Chandigarh

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Bedi, Senior Advocate with
Mr. Sonpreet Singh Brar, Advocate
for petitioners Rajat Ahluwalia and Balbir Singh.

Petitioner Bhupinder Jeet Singh Ahluwalia already expired.

Mr. J.S. Toor, A.P.P. UT, Chandigarh.

Mr. Akshay Bhan, Senior Advocate with
Mr. Sudeep Sharma, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed by Bhupinder Jeet Singh Ahluwalia (since deceased), Rajat Ahluwalia and Balbir Singh under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.295 dated 27.05.2013 registered for the offences punishable under Sections 419, 420, 465, 467(wrongly mentioned as 567), 468, 471 read with Section 120-B of Indian Penal Code, at Police Station Sector-17, Chandigarh.

Heard.

The case of complainant Onkarjit Singh Ahluwalia, in brief, is that Bhupinder Jeet Singh Ahluwalia (since deceased) forged a power of attorney on behalf of complainant in his name for selling his joint land measuring 31 kanals 2 marlas situated at village Badmajra, Tehsil and District Mohali. Balbir Singh petitioner No.3 impersonated as complainant at the time of registration of power of attorney before Sub Registrar, Chandigarh on 01.03.2004. This power of attorney was witnessed by Rajat Ahluwalia and Mr. P.S. Walia, Advocate, Estate Office, Chandigarh. Thereafter, Bhupinder Jeet Singh Ahluwalia sold 50% share of the complainant in the said land vide sale deed dated 03.03.2004.

Learned counsel for the petitioners has argued that matter was amicably settled with the complainant vide settlement deed dated 17.09.2008, copy of which has been placed on file as Annexure P-8. The case of the prosecution is based on documentary evidence and custodial interrogation of the petitioners is not required. Complainant vide writing Annexure P-7 had acknowledged the sale of his land in favour of Gurmat Gyan Rohani Mission Charitable Trust, Budhmajra, Tehsil Mohali and stated that the sale of land was with his consent and knowledge and he had no objection whatsoever to the already concluded sale of the land. He had also acknowledged the receipt of full and final consideration i.e. sale price of the land amounting to ₹37,75,000/- vide demand draft mentioned in writing Annexure P-7. Thereafter, a writing with regard to partition of house No.2164, Sector 15-C, Chandigarh was also executed between Bhupinder Jeet Singh Ahluwalia and Onkarjit Singh complainant. After having satisfied himself, the complainant for obvious reasons got registered FIR in

the year 2013.

Learned State counsel and learned counsel for the complainant have argued that this fact is not denied that petitioner No.3 Balbir Singh had impersonated complainant at the time of execution of power of attorney dated 01.03.2014. The settlement/compromise, if any, was with Bhupinder Jeet Singh Ahluwalia and not with petitioners No.2 and 3, as such, they cannot take benefit of the same. Keeping in view the nature of the offence committed by petitioners No.2 and 3, they are not entitled to the benefit of discretionary relief of pre-arrest bail.

Perusal of the paper book shows that alleged forgery took place in the year 2004. Complainant was aware of it and entered into a settlement with his brother Bhupinder Jeet Singh Ahluwalia, thereby admitting his authority to sell the land. It is a matter of investigation and proof during trial as to what is the effect of delay of about 9 years after execution of power of attorney on this FIR and alleged settlement of complainant with his brother and receipt of ₹37,75,000/- amounts to settle the dispute.

The petitioners were allowed interim relief of bail in the event of their arrest vide order dated 10.09.2014 and nothing has been argued on behalf of State that from that day and till date, petitioners in any manner have either interfered with the conduct of investigating officer or avoided to cooperate with investigating officer.

Keeping in view the above facts but without expressing any opinion on the merits of the case, this petition is allowed and the order dated 10.09.2014 is made absolute till the presentation of challan, subject to the

following terms:-

- (i) that the petitioners shall make themselves available for interrogation by the police as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioners shall not leave India without the previous permission of the Court.
- (iv) that the petitioners will seek regular bail on the presentation of challan in Court.

May 18, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***