

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-M-38448 of 2016 (O&M)
Date of Decision : 11.01.2017

Charanjit Arora

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-40940 of 2016 (O&M)

Manjit Soni

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sant Pal Singh Sidhu, Advocate
for the petitioner in CRM-M-38448-2016.

Mr. S.K. Virk, Advocate
for the petitioner in CRM-M-40940-2016.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Jaswinder Singh, Advocate
for the complainant.

Surinder Gupta, J.

Petitions captioned above have been taken up together for disposal as both the petitions arise in case bearing FIR No. 08 dated 07.09.2016 for offences punishable under Sections 209, 420, 467, 468, 471, 120-B IPC and Section 82 of the Registration Act, registered at Police Station NRI, Ludhiana, District Ludhiana.

Charanjit Arora has filed petition under Section 438 Cr.P.C. seeking pre-arrest bail while Manjit Soni has filed petition under Section 439 Cr.P.C. seeking regular bail.

Prosecution case, in brief, is that Dwarka Dass contracted

second marriage with complainant-Jagminder Kaur and from this marriage a son, namely, Dilraj Dass was born at Austria. In order to look after his property dispute with brothers he had been coming to India and appointed Manjit Soni (petitioner in CRM-M-40940-2016) as his attorney. On 26.11.2010, he executed a registered Will thereby bequeathing his entire property in favour of his son Dilraj Dass. He died on 26.06.2014 at Austria. On coming to know of demise of Dwarka Dass, petitioner-Manjit Soni in connivance with Harnek Singh and Charanjit Arora (petitioner in CRM-M-38448-2016) fabricated the Will of Dwarka Dass and thereafter got it registered on 15.01.2015 at Ludhiana. On the basis of this Will he approached the revenue authorities for transfer of the land of Dwarka Dass in his name and also put his locks on the property of Dwarka Dass.

Learned counsel for the petitioner-Charanjit Arora in CRM-M-38448-2016 has argued that the petitioner is attesting witness of the Will and is not a beneficiary and prosecution has not collected any evidence to prove that Will dated 22.11.2013 do not bear signatures of Dwarka Dass. He has sought pre-arrest bail for Charanjit Arora submitting that he has no concern with the property of Dwarka Dass.

Refuting submissions of learned counsel for the petitioner-Charanjit Arora, learned State counsel and learned counsel for the complainant have argued that Charanjit Arora is the brain behind forging of the Will of Dwarka Dass. He has not only forged the Will but has also produced this Will before the revenue authorities to get the mutation sanctioned in favour of Manjit Soni (petitioner in CRM-M-40940-2016). In support of their contention, they have placed on record copy of mutation order, which has a note regarding production of the Will of Dwarka Dass by

Charanjit Arora. This shows that he has used Manjit Soni as a tool to grab the property of Dwarka Dass worth crores of rupees as legal heirs of Dwarka Dass were residing in Austria. Forgery of Will dated 22.11.2013 is proved from the fact that it has no reference regarding earlier registered Will of Dwarka Dass and it further describes the complainant as keep of Dwarka Dass instead of his wife despite the fact that their marriage was registered marriage and son Dilraj Dass was born from this marriage.

On perusal of documents produced before me, I find that role of petitioner-Charanjit Arora in CRM-M-38448-2016 is not confined as marginal witness of Will rather he played an active role in getting the property transferred in the name of Manjit Soni. Marginal witness is not required to go to the revenue authorities to seek mutation in favour of beneficiary under the Will by producing the Will. If he was not interested in estate of Dwarka Dass, there was no reason for him to go to the revenue authorities and seek mutation in favour of Manjit Soni as per Will dated 22.11.2013. This reflects that his role was more than a mere marginal witness of Will and Manjit Soni was merely a puppet in his hands.

It has been stated that signatures of Dwarka Dass were sent to Forensic Science Laboratory for comparison but they have sought some more material to give a concrete report. It is not denied that in the Will no reference has been made regarding the earlier registered Will of Dwarka Dass and status of the complainant has also been wrongly mentioned. The above facts support contention of complainant about attempt made by petitioner to grab the property of a non-resident-Indian.

Keeping in view the gravity of offence, I find no reason to exercise discretionary power for grant of pre-arrest bail to petitioner-

Charanjit Arora in CRM-M-38448-2016. His petition has no merit and the same is dismissed.

It has been submitted that petitioner-Manjit Soni in CRM-M-40940 of 2016 was arrested on 08.09.2016 and challan against him has been presented in the Court. The police will also produce supplementary challan against Charanjit Arora.

As petitioner-Manjit Soni is in custody for the last more than four months and the conclusion of trial will take considerably long time, the petition filed by Manjit Soni is allowed. Petitioner-Manjit Soni is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

January 11, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No