

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

CRM-M-39292 of 2016

Date of Decision: February 13, 2017

Pawan Kumar and others

Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Manoj Bajaj Advocate
and Mr. S.P. Arora, Advocate
for the petitioners.

Mr. Deepak Sabherwal, Addl. A.G. Haryana.

FATEH DEEP SINGH, J.

The petitioners-accused Pawan Kumar, Ash Mohammad, Devakaran Shetty and Atul Kumar have all sought anticipatory bail in this case got registered by way of an FIR No.633 dated 24.12.2015 under Sections 420,467,468,471 and 120B IPC registered at Police Station Palam Vihar, District Gurgaon.

The brief allegations are that the petitioners and other accused in all numbering 13 hatched a criminal conspiracy and managed to impersonate and sell off a plot bearing No.1327 measuring 520 sq. yards situated in Palam Vihar, District Gurgaon, worth crores of rupees owned by complainant Neeru Kumar, who is an NRI based in London. The modus operandi of the petitioners-accused was by way of creating a forged and fabricated power of attorney by impersonation purported to have been executed by the owner complainant in favour of Sagar Malhotra accused

dated 02.07.2014 having been stamped before the Collector, Delhi on 25.7.2014 and on the basis of which on 6.11.2015 sold the property in favour of Victor Singh, Ash Mohammad, Divakaran Shetty and Atul Kumar and inspite of complaint having been made by the complainant to the concerned authorities not to register the sale deed of her plot on the basis of said forged and fabricated General Power of Attorney sale deed dated 6.11.2015 was executed in favour of Victor Singh, Ash Mohammad, Divakaran Shetty and Atul Kumar.

The contentions of the learned counsel for the petitioners that the parties have effected a compromise before the Court of learned Civil Judge, Senior Division, Gurgaon and has sought to place reliance on this document as Annexure P/4 and that co-accused have been allowed regular bail by this Court vide orders dated 19.09.2016.

The bail application is stoutly opposed by the learned State counsel on the grounds that it has been very well determined by the Court that the criminal proceedings are independent of the civil and that it was a case of fraud not only with a private party but with the authorities where impersonation, forgery and fabrication has taken place and, thus, no case for grant of anticipatory bail to the petitioners is made out.

Appreciating the submissions, the alleged compromise Annexure P/4 on the very face of it reflects that there has been due admission by the executants who happened to be the petitioners and remaining accused as to this complicity in the commission of such a serious fraud not only with a private owner of the property but with Public Authorities as well.

Thus, in view of the seriousness of the allegations and heinousness of the offences custodial interrogation of the petitioners is very much essential. More so, provisions of Section 438 Cr.P.C are to be sparingly used no ground for grant of anticipatory bail to the petitioners is made out.

Dismissed.

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(FATEH DEEP SINGH)
JUDGE

February 13, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No