

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

CRM-M-11425-2017 (O&M)

Date of decision: 03.04.2018

Baljit Singh

... Petitioner

Vs.

State of Haryana

... Respondent

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

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Karan Pathak, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Sandeep Singh, Advocate for the complainant.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case F.I.R. No.0306, dated 22.11.2016, under Sections 420/467/468/471/506/120-B IPC, registered at Police Station DLF Phase I, Gurgaon.

Counsel for the parties have been heard.

FIR came to be registered at the instance of Krishna Devi. Present petitioner is none other than the real brother of the complainant. The genesis of the dispute is with regard to the inheritance of property flowing from their deceased father, namely, Ran Singh and who expired on 04.04.2015. Allegations primarily revolve around certain fraudulent practices having been adopted by the petitioner as regards opening of a bank account in HDFC Bank, DLF, Phase I, Gurgaon in the name of Ran Singh (since deceased) and by virtue of operation of such account, a residential

flat having been acquired and subsequently, having been sold in the year 2011. There is also allegation with regard to a fraudulent agreement to sell dated 12.11.2014 having been set up pertaining to 19 kanals of land approximately under the ownership of Ran Singh (deceased) and entered into with one Bijender. Allegations are that such agreement to sell carries forged signatures of Ran Singh (since deceased) and the objective of setting up of such agreement to sell was to defeat the inheritance rights vested with the complainant/daughter in pursuance to a family settlement deed (blood relation deed) by Ran Singh during his lifetime.

While issuing notice of motion, the following order was passed by this Court on 03.04.2017:

“It is inter alia argued that petitioner-Baljit Singh happens to be the real brother of complainant-Krishna Devi and there is a dispute over the inheritance of property pending before the Civil Court, which is already seized of the matter and that nothing is to be recovered as all the documents are public records.

Notice of motion for 2nd June, 2017.

Meanwhile, in the event of arrest, the petitioner be released on interim bail to the satisfaction of arresting/investigating officer. The petitioner shall, however, join the investigation as and when called for to do so and he shall also abide by the conditions as envisaged under Section 438 (2) Cr.P.C.”

It is noticed that during the course of resumed hearings of this petition before this Court, learned State counsel, who was on instructions from DSP, Crime Branch, Gurgaon had apprised this Court that even though petitioner has joined investigation but a mobile set bearing No.9810466056, a cheque book of the HDFC Bank bearing account No.0441000117574 and

his signature samples were required.

It is not in dispute that the petitioner thereafter has furnished the mobile phone, the cheque book pertaining to the HDFC bank account and has even provided his sample signatures.

Few relevant facts may also be noticed. It is complainant's case herself that Ran Singh (deceased) had executed a registered Will at Gurgaon in favour of his two sons including the present petitioner in the year 2008. Thereafter, such Will of 2008 had been cancelled and a subsequent Will was executed in the year 2010 at Hansi in favour of his daughter/complainant.

During the course of arguments, it has gone uncontroverted that opening of the bank account in HDFC bank in the year 2005 is specifically mentioned in the registered Will of 2008.

The family settlement deed (blood relation deed) dated 09.01.2015 already stands assailed by the petitioner in terms of instituting a suit for declaration before the competent civil Court much prior to the date of registration of the instant FIR. Such suit is pending adjudication and even a status quo order is stated to have been passed and in operation till date.

Insofar as the agreement to sell dated 12.11.2014, the vendee, namely, Bijender has also filed a suit for specific performance and which is pending.

In a nutshell, it may be observed that the allegations contained in the FIR are all founded on documentary evidence.

Learned State counsel upon instructions from DSP Dharambir Singh apprises the Court that the petitioner has since joined investigation and has cooperated in the matter.

In view of the above, it is the considered view of this Court,

custodial interrogation of the petitioner would not be warranted.

Prayer made in the instant petition is accepted. Order dated 03.04.2017 passed by this Court is made absolute.

Disposed of.

03.04.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |