

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14732-2018

Date of Decision: 16.08.2018

Sukhdev Raj

...Petitioner

VS.

State of Punjab and another

..Respondents

CRM-M-25639-2018

Sukhdev Raj

...Petitioner

VS.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.K.Handa, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN,J

CRM-M-14732-2018

Prayer in this petition is for quashing of FIR No.19 dated 01.09.2014, under Sections 419/420/465/468/471 and 120-B IPC, registered at Police Station NRI Cell Ludhiana, District Ludhiana, as well as summoning order dated 02.08.2017 (Annexure P3) passed by the trial Court allowing the application under Section 319 Cr.P.C. and the subsequent order dated 02.01.2018 (Annexure P4) vide which the petitioner was declared a proclaimed person.

CRM-M-25639-2018

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.19 dated 01.09.2014, under Sections

419/420/465/468/471 and 120-B IPC, registered at Police Station NRI Cell Ludhiana, District Ludhiana, whereby, the petitioner was summoned as an additional accused under Section 319 Cr.P.C. vide order dated 02.08.2017.

Brief facts of the case are that the aforesaid FIR was registered by one Pran Nath with the allegations that he is retired Army Officer and was allotted one plot No. 317 (old) and 478-F (new) by Kabir Cooperative House Building Society and later on, the sale deed dated 10.04.2007 was executed by the Society. The accused persons, in September 2010, started proclaiming themselves to be the owner in possession of the property and on an inquiry, it came to the notice of the complainant that on the basis of a sale deed allegedly executed by the complainant, though he neither executed the sale deed nor appeared before the Sub Registrar, Ludhiana, the accused are claiming ownership. It is further stated that the complainant was in USA at the time of alleged sale deed and the same was got executed by producing some imposter in place of the complainant.

Counsel for the petitioner submits that during investigation, the petitioner was found innocent and later on, when the prosecution filed an application under Section 319 Cr.P.C., he was summoned vide order dated 02.08.2017 alongwith other co-accused. Counsel further submits that later on, the petitioner was declared a proclaimed offender on 02.01.2018. It is further submitted that the impugned order, declaring the petitioner a proclaimed offender, was in violation of the provisions of Section 82 Cr.P.C.

Learned counsel for the petitioner thus submitted that the impugned FIR, summoning order as well as the order declaring the petitioner a proclaimed offender be set aside.

Counsel for the petitioner submits that the petitioner is residing abroad and has been wrongly declared a proclaimed offender without following the proper procedure under Section 82 Cr.P.C.

It is relevant to mention here that on 20.04.2018, the petitioner had undertaken that he was willing to surrender before the trial Court within a period of 10 days and will move an application for grant of regular bail. In view of the same, it was directed that in case, the petitioner surrenders before the trial Court and moves an application for grant of bail, the same shall be considered and decided as per law within two days by the trial Court.

Thereafter, on two occasions, the petitioner sought time to comply with the aforesaid order dated 20.04.2018, however, the petitioner has failed to surrender before the trial Court.

After hearing learned counsel for the parties, I find no ground to quash the order dated 02.01.2018, declaring the petitioner as proclaimed offender pursuant to the impugned summoning order dated 02.08.2017, for the following reasons:-

a. The petitioner, having undertaken to appear before the trial Court and apply for regular bail, subsequently has failed to comply with his own undertaking.

b. A perusal of FIR shows that the allegations are that in place of the complainant by producing some imposter, his property has been sold. A perusal of the summoning order shows that while allowing the application under Section 319 Cr.P.C., the petitioner was summoned as an additional accused on the basis of the statement of the complainant recorded in the Court (copy attached as Annexure P5). Therefore, considering the

serious allegations in the FIR which the petitioner is disputing, I find no ground to entertain the petition filed under Section 482 Cr.P.C. for quashing of FIR, summoning order and the order declaring the petitioner as proclaimed offender, especially when the trial Court is recording the evidence of prosecution.

Since, the petitioner has failed to abide by his own undertaking to surrender before the trial Court and apply for regular bail, I find no ground to grant anticipatory bail to the petitioner, as he was declared a proclaimed offender on 02.01.2018..

Accordingly, both the petition stand dismissed.

16.08.2018
smriti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No