

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

**CRM-M No.18181 of 2017 (O&M)
Decided on: 11.05.2018**

Gian Kaur and another

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rakesh Gupta, Advocate for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

Mr. M.S. Sachdev, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of anticipatory bail in FIR No.223 dated 25.07.2016 registered under Sections 420, 465, 468, 471, 447, 511 and 120-B IPC at Police Station Navi Baradari, Jalandhar City, District Jalandhar.

Counsel for the petitioners has submitted that petitioner No.1 is an old lady aged about 80 years and vide agreement to sell dated 03.04.1987, for full and final settlement, she had purchased the disputed property from one Sewa Singh. It is further submitted that the petitioner No.1 is a resident of Madhya Pradesh and belong to a Sikh family and at that time, due to law and order problem, she wanted to settle in Punjab and had purchased the property in dispute. However, later on, when things improved, she decided not to shift to Punjab. It is further submitted that on 11.10.2004, the petitioner filed a civil suit for specific performance based on the aforesaid agreement to sell which was decreed ex parte on 21.11.2006 and, thereafter, the Civil Court in

execution of the same got the sale deed executed in her favour on 08.08.2008.

Counsel for the petitioners has further submitted that the FIR has been registered on 25.07.2016 by one Narinderpal Singh with the allegations that his mother Swaran Kaur is the owner of plot in dispute which she has purchased from one Mahinderpal Singh son of Amarjit Singh through GPA Balwant Singh and its mutation was sanctioned in her favour. It is alleged in the FIR that prior to the mother of the complainant, Mahinderpal Singh was owner of the property and prior to Mahinderpal Singh, petitioner No.1 – Gian Kaur was the owner of the property and the mutation No.8562 dated 28.02.2003 was sanctioned in her favour. It is further alleged in the FIR that the petitioner had executed GPA in favour of one Ashok Kumar who has sold the plot to the aforesaid Mahinderpal Singh vide sale deed dated 11.08.2004. It is further alleged in the FIR that subsequently a civil suit was filed on 11.08.2004, when petitioner No.1 has already sold the plot by way of executing a GPA in favour of Ashok Kumar and, thereafter, he sold the same to Mahinderpal Singh and, hence, the petitioner by filing a civil suit has played fraud with the complainant.

Counsel for the petitioners has further submitted that before registration of the FIR, an enquiry was conducted by the Assistant Commissioner of Police (Central) and in the FIR, the report of the Police Commissioner, Jalandhar is reproduced as below:-

The Hon'ble Police Commissioner, Jalandhar wrote on the applicant –

“ACP Central PI. Examine personally take n.a as

per facts law & report”

*Sd/- Police Commissioner Jalandhar
1.10.15*

The inquiry of which has been initiated by Assistant Commissioner of Police, Central, Jalandhar and he wrote in his inquiry report that the complaints numbered above have been received. On these D.A. legal wrote that the complainant No.1 Narinder Pal Singh has alleged that the Ex-parte Decree which has been obtained by Gian Kaur from the Court, the same has been obtained by giving wrong addresses of other party Sewa Singh and Mahinder Kaur. Complainant No.2 Baljit Singh has alleged that the sale deed bearing No.8562 dated 28.02.2003 which has been done by Mahinder Kaur in the name of Gian Kaur w/o Swarn Singh is forged because one Hawinder Kaur d/o Gurmit Singh Bhogal has impersonated as Gian Kaur for the purpose of doing this sale deed and the said Harwinder Kaur has done bogus General Poer of Attorney being registration No.3233 dated 07.03.2003 in favour of Jaswinder Singh and Ashok Kumar, and all the subsequent property transactions after these are fake. In view of the facts above, the inquiry report is silent as to what criminal liability has been done by Gian Kaur and Baljit Singh and as per the documents, the property stands in the name of Gian Kaur, intimate as to what criminal act has been done by Gian Kaur and Baljit Singh. On re-inquiry on the complaints numbered above the following persons appeared before me in my office and given their written statement:-

Note:- The complete Inquiry Report, Opinion of the D.A. legal and P.S. is separately attached due to FIR contents exceeding 8000.”

It is further submitted that the power of attorney in favour of Ashok Kumar and the subsequent sale deed executed by Ashok

Kumar in favour of Mahinderpal Singh do not bear the photographs of the petitioners and these are the fake documents which can be decided during the course of trial, therefore, the petitioners, who have already joined the investigation are no more required for any further investigation.

Counsel for the State, on instructions from ASI Manohar Lal, has not disputed the fact that the petitioners have joined the investigation on various occasions and have handed over the relevant documents.

Counsel for the complainant, on the other hand, has however opposed the prayer for bail on the ground that the petitioners has not handed over the original agreement to sell dated 03.04.1987 and has not produced the car in which they have travelled to take possession of the plot in dispute. It is further submitted that the complainant has even filed a civil suit challenging the ex parte decree dated 21.11.2006 passed in favour of petitioner No.1 and the same stands decreed by the Civil Court.

In reply, counsel for the petitioners has submitted that while leading evidence in the civil suit filed by petitioner No.1, she has already moved an application for leading secondary evidence on the ground that the agreement to sell dated 03.04.1987 is not available.

After hearing counsel for the parties, without commenting anything on merits of the case and considering the fact that the entire dispute between the parties is regarding the execution of various documents which both the parties claim to be forged and fabricated and this fact can be decided only during the course of trial, this petition is

allowed and the interim bail granted to the petitioners vide order dated 22.05.2017 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

11.05.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No