

Sr. No.201

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

CRM No. M-19879 of 2016 (O&M)

Date of Decision: 17.04.2018

Abdul Rashid @ Mohd. Rashid and another

... Petitioners

Versus

State of Punjab and another

... Respondent

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

Present:- Mr. R.K.Singla, Advocate,
for the petitioners.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. Sandeep Punchhi, Advocate,
for respondent No.2-Wakaf Board, Punjab.

Mr. Mohd. Yousaf, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of the instant petition preferred under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.34 dated 05.05.2016, under Sections 295A, 408, 418, 120-B IPC read with Section 6 of the Place of Worship (special Provisions Act), 1991, registered at Police Station City-II, Malerkotla District Sangrur.

While issuing notice of motion, the following order was passed by this Court on 02.06.2016:-

“Prayer is for grant of anticipatory bail to accused petitioners Abdul Rashi @ Mohd.Rashid and his son Iklakh Qurashi in case FIR No.0034 dated 5.5.2016

under Sections 295-A,408,418,120-B IPC, read with Section 6 of the Place of Worship (Special Provisions Act,),1991 PS City-II,Malerkotla.

The allegations are that petitionerno.1-accused Abdul Rashid @ Mohd.Rashid fraudulently claimed himself to be the owner in possession of 144 square yards of land recorded as Kabristan based on an alleged oral gift agreement in the year 1962 executed in his favour by one Mohd.Ashraf,who has since migrated to Pakistan. Based on the said oral gift deed, accused-petitioner no.1Abdul Rashid is alleged to have executed two gift deeds dated 7.5.2014 in favour of his co-accused son-Ikhlaq Qureshi/petitioner no.2 and non-applicant co-accused Mohd.Abrar transferring half share each of the aforesaid land. Two shops along with some vacant area stands constructed on the land in question.

Petitioner no.1 is father of petitioner no.2 and of 77 years of age. Allegations against petitioner no.1 are that he forged and fabricated Memorandum of Gift dated 15.3.1962 acknowledging the earlier oral gift by Iklakh Qurashi whereas petitioner no.2 is one of the ultimate beneficiaries of the aforesaid fraud.

It is contended that allegations were inquired into by SP Malerkotla and vide report (P-14) dated 14.3.2016 in which the aforesaid allegations were found to be false and petitioners found innocent.

Notice of motion for 25.8.2016.

At this stage, Mr.Mohd.Yousaf,Advocate accepts notice on behalf of the complainant.

In the event of arrest, the petitioners shall be released on bail on furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer. Petitioners shall appear before the I.O., as and when called upon for investigation and shall also be bound by all the conditions stipulated in Section 438(2)

Cr.P.C.”

It has gone uncontroverted that petitioners have since joined investigation.

Co-accused Mohd. Abrar (non-applicant) and who would be seen as similarly situated as petitioner No.2 herein has been granted concession of pre arrest bail by a Coordinate Bench of this Court vide order dated 27.09.2016 in CRM No.M-19595 of 2016.

Petitioner No.1 is stated to be a senior citizen aged 79 years as of date.

Without making any observations on merits and in the totality of circumstances, custodial interrogation of the petitioners would not be warranted.

Prayer made in the instant petition is accepted.

Order dated 02.06.2016 passed by this Court is made absolute.

Disposed of.

17.04.2018

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
No