

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

CRM-M-31137-2018 (O&M)

Date of Decision:-28.8.2018

Hans Raj

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Mohd. Yousaf, Advocate for the petitioner.

Mr. A.S. Sandhu, Additional Advocate General, Punjab.

GURVINDER SINGH GILL, J. (Oral)

Mr. Karanjeet Singh, Advocate has put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record.

The petitioner seeks grant of anticipatory bail in respect of a case registered against him vide FIR No.178 dated 8.6.2018 under Sections 420 and 120-B of Indian Penal Code, 1860 at Police Station Sultanpur Lodhi, District Kapurthala.

The allegations, in nutshell, are that the Menhga Ram, father of the petitioner-Hans Raj, had initially been allotted a plot measuring 71 Sq.Yds. in the year 1965 by the Central Government for ₹ 871/-. However, since the said amount was not paid and the said allotment was cancelled. Subsequently, in the year 1969, Menhga Ram again gave a bid and was a successful bidder for an amount of ₹ 450/-. However, subsequently, when it came to be known that allotment earlier in favour of Menhga Ram had been cancelled, the said allotment for the second time was also cancelled.

Subsequently, in the year 1989, the petitioner-Hans Raj and his brother Lal Chand had challenged the said cancellation by way of filing a civil suit, which was decreed. However, upon an appeal having been filed by Union of India, the order was reversed. It is alleged that despite the fact that the petitioner knew that the allotment in favour of his father Menhga Ram had been cancelled and that the Civil Court had also returned the findings against him, the petitioner-Hans Raj by showing himself to be owner of the plot in question transferred the same in favour of his son Jatinder Kumar and Dharmender Kumar.

Notice of this petition was issued to the State.

The learned State counsel has opposed the same.

The learned counsel for the petitioner has submitted that in the present case nobody has been cheated and that nothing is to be recovered from the petitioner and in these circumstances it is not a case of custodial interrogation and that it is ultimately after the conclusion of trial that it would be decided as to whether the petitioners have committed any offence or not.

On the other hand, the learned State counsel has submitted that the petitioner very well knew that the allotment in favour of his father Menhga Ram has been cancelled and that in these circumstances it is evident that he had cheated the State by effecting the sale-deed in question.

Having heard the learned counsel for the petitioner and also the learned State counsel, I find that in the present case, the petitioner cannot feign ignorance of the fact that the allotment in favour of his father already stood cancelled. The complicity of petitioner is writ large in view of facts of

the case inasmuch as the civil suit stood decided against him in appeal and in these circumstances, there was no ambiguity and the petitioner could not have been carrying any wrong impression about the ownership of the property in question and thus had no business to transfer the property in favour of his sons. The discretion for grant of anticipatory bail to the petitioner is to be exercised keeping in view all the facts and circumstances in mind and being a discretionary relief, this Court does not find that the present case is fit enough to exercise the discretion.

There is no merit in the present petition and the same is hereby dismissed.

28.8.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No