

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

**CRM-M-32945-2018
Date of decision: 19.09.2018**

Sunil Kumar @ Sheela

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. P. S. Sidhu, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0043 dated 09.05.2018, registered under Sections 420, 465, 467, 468, 471 and 120-B of the IPC at Police Station Cantt. Ferozepur, District Ferozepur.

Learned counsel for the petitioner submits that as per the allegations in the FIR, on the basis of the Will dated 07.04.2014 of Shushma Sharma, the property of Sushma Sharma devolved upon Jiwan Jyoti, who is the son of the daughter of Sushma Sharma and was adopted by her.

Learned counsel for the petitioner further submits that subsequently, a sale deed was executed with regard to the property and the petitioner is an attesting witness to the same. Learned counsel for the petitioner further submits that while granting regular bail to co-accused Rohit Bhagat and one other accused, the following order has been passed in

CRM-M-28030-2018 on 13.07.2018 (Annexure P-2):

“Learned counsel appearing on behalf of the petitioners has argued that on the basis of an agreement to sell dated 05.08.2014, petitioner No.1 has purchased a six marla plot situated in the Cantonment Area of Ferozepur for a valid sale consideration. Thereafter, petitioner No.1 has sold that house to complainant-Paramjit Singh on 03.11.2016. Since the original owner Sushma Sharma, who was issueless and adopted Jiwan Jyoti, who is son of her daughter, has disowned him on 10.06.1997, she (Sushma Sharma) has executed a registered Will dated 17.01.2014 in favour of Hindu Sabha. However, at later stage, complainant-Paramjit Singh has come to know that the Will dated 07.04.2014 as projected by Jiwan Jyoti, which was the basis of an agreement to sell dated 05.08.2014 in favour of petitioner No.1, was a forged one. Learned counsel for the petitioners states that petitioner No.1 is a bonafide purchaser against the sale consideration. So far as the Will dated 07.04.2014 allegedly forged by Jiwan Jyoti is concerned, the same is subject matter of challenge before the civil court. He further states that petitioner No.1 had purchased the said property on 05.08.2014 and it is only on 03.11.2016, this property was sold by petitioner No.1 in favour of Paramjit Singh-complainant i.e. after a considerable time. On the other hand, learned State Counsel on instructions from ASI Mohinder Singh states that since petitioner No. 1 is the beneficiary of the forged Will and it is on the basis of that Will, Jiwan Jyoti has sold the property to petitioner No.1. The allegations against the petitioners are serious. I have heard learned counsel for the parties. Considering the fact that the Will dated 07.04.2014 is subject matter of challenge before the civil court, the complainant-Paramjit Singh is still in possession of the property and has stated to be rented it out, this Court

finds that the petitioners who are in custody since 09.05.2018 deserve to be admitted on bail.”

Learned State counsel, on instructions from ASI Satnam Singh, has not disputed the factual position and submits that co-accused Rohit Bhagat, who is the beneficiary of the said sale deed, has already been granted concession of regular bail by this Court and allegations against the petitioner are that he is an attesting witness to that sale deed.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the Will dated 07.04.2014 is subject matter of challenge before the Civil Court; complainant is still in possession of the property and also in view of the fact that trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

September 19, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No