

Sr. No.103

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

**CRM-M-41526-2018
Date of decision:20.09.2018**

Naresh Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

This is a petition seeking anticipatory bail in FIR No. 327 dated 29.08.2018 registered under Sections 419,420,467,468,471,120-B of IPC at Police Station Naraingarh, District Ambala.

The allegation in the FIR are that the complainant is owner in possession of the land measuring 06 acres. On 24.08.2018, the complainant came to know that Naresh Kumar, the present petitioner and one Umed Singh were hatching conspiracy to grab the land of the complainant through fraudulent means. The allegation is that these persons were going to impersonate the complainant before the Sub-Registrar for getting the fraudulent sale deed registered in favour of one Santosh Kumari wife of Rajender Kumar. It is further alleged in the FIR that the above said two persons were fabricating the Aadhar Card of the complainant. It was also alleged that the draft of the sale deed have already been got typed from Deed Writer on 23.08.2018 and even the stamp duty stands deposited by the accused.

Learned counsel for the petitioner submits that the petitioner is

not the beneficiary. He is not the signatory to the agreement to sell. It is further contended that the petitioner was not found present in Tehsil Complex at the time of attempt of Registration of the alleged fraudulent sale deed. Therefore, it is contended that no forgery or cheating has been committed by the petitioner. Nothing is to be recovered from the present petitioner. No purpose would be served by keeping the petitioner in custody.

A perusal of the Order dated 13.09.2018 passed by the Court below, while dismissing the anticipatory bail filed by the present petitioner shows that four persons, namely, Santosh Kumari-intending purchaser, the co-accused of the petitioner Umed Singh, Bargat Ram and Pritam Singh were arrested from the spot in Tehsil Complex attempting to get fraudulent sale deed registered, whereas the petitioner alongwith one Ashok Kumar, Numbardar skipped from the spot. It is further recorded that as per the Police Report the consideration for the sale deed have been furnished by the present petitioner by way of three cheques issued by him from his own account.

The allegations in the FIR also show that the petitioner alongwith the other co-accused, Umed Singh are the main conspirators behind this fraudulent attempt. The allegation contained in the FIR are that to lend authenticity to the impersonator; even the Aadhar Card in the name of the complainant was forged by the accused. Thereafter, while giving effect to conspiracy the attempt has been made to grab the property, through the method of getting created a fake seller and a purchaser, through a transaction in which the present petitioner alleged to have paid the consideration.

Therefore, at this stage, it can not be said that the petitioner is not involved in the case.

It is settled law, as held by the Hon'ble Supreme Court, that the interrogation of an accused by the police when he is protected by the Court Order is qualitatively and quantitatively different then the interrogation when the accused does not have the sense of protection by the Court Order. Custodial interrogation is more result oriented and gives the more scope to the police to investigate the case in the right earnest. Therefore, the power to grant anticipatory bail to an accused has been given to the Court only as an extraordinary power, which is to be used by the Court only if there are the extenuating circumstances which; leads towards the innocence of the accused.

In the present case, the allegations are regarding fabrication of Aadhar Card in the name of the complainant. Still further, the co-accused have been caught in the act while getting the fraudulent sale deed registered. Documents and material created by the petitioner and the co-accused to perpetuate the fraud are yet to be recovered by the police. The investigation is at initial stage.

In view of this situation, this Court does not find any extenuating circumstance; to justify the exercise of its power under Section 438 Cr.P.C; to grant anticipatory bail to the petitioner, and thereby to prevent the police from conducting the investigation in the right earnest. Finding no merit in the present petition, the same is hereby dismissed.

20th September, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*
Whether Reportable *Yes/No*