

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

**CRM-M-42632-2018
Date of decision:11.10.2018**

Darshan Singh Laungia

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Manoj Vashishtha, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. Paras Talwar, Advocate
for the complainant.

GURVINDER SINGH GILL, J. (ORAL)

The petitioner seeks grant of anticipatory bail in respect of FIR No.91 dated 30.08.2018, under Section 420 of Indian Penal Code, 1860, Police Station Sadar, Ropar.

The FIR was lodged at the instance of Paramjit Singh son of Gurdev Singh wherein it has been alleged that Darshan Singh had been appointed as attorney by his father Gurdev Singh and also by his uncles namely Ajit Singh, Gurmukh Singh and Jaswant Singh as well as by his father's three sisters. It is alleged that although his uncle Jaswant Singh had expired on 24.08.2012, but Darshan Singh, however proceeded to sell the entire land of his father & uncles vide three separate sale deeds i.e. sale deed dated 03.09.2012, 12.09.2012 and 14.02.2013, although it was

fully in knowledge of Darshan Singh that Jaswant Singh had already expired.

Notice of motion was issued to the respondent-State. Learned State counsel assisted by learned counsel for the complainant has opposed the bail application.

Learned counsel for the petitioner has submitted that although Jawant Singh had expired before the sale deeds in question were executed by Darshan Singh in the capacity of General Power of Attorney but the same were executed with the consent of other co-sharers and other members of the family and that in fact on an earlier occasion the complainant's brother namely Narinder had also filed a complaint with the police which was duly inquired into and was filed. Learned counsel has further submitted that the very fact that the one of the sister namely Manjit Kaur had executed power of attorney in favour of the petitioner on 3.09.2012 i.e. the date when one of the sale deed was executed would show that the entire family was consenting for the purpose of disposal of the property in question. It has further been submitted that sale-proceeds was distributed amongst all the members of the family. It is further been submitted that since the petitioner is aged 70 years, therefore, in any case, he deserves the concession of anticipatory bail.

On the other hand learned State counsel and learned counsel for the complainant submitted that the allegations as per the FIR are crisp and clear to the effect that the petitioner was knowing fully well that Jawant Singh had expired in August, 2012 but yet proceeded to sell of the property on the strength of the power of attorney of Jaswant Singh in

September, 2012, although Sh. Jaswant Singh had already expired. It has further been submitted that earlier complaint filed by brother of the complainant pertained to a different piece of land and that in any case, even if any earlier complaint stood filed by the police, the same would not have any bearing upon the present FIR in view of the factual position that Jaswant Singh had expired in August, 2012 and various sale deeds were executed after his death on the strength of power of attorney of the dead person i.e. Jaswant Singh. The learned State counsel has further submitted that there is nothing on record to suggest that the sale-proceeds had been distributed amongst other members of the family.

The said contention regarding non-distribution of sale-proceeds is however, disputed by learned counsel for the petitioner on the ground that in complaint filed by Narinder Singh, his father Gurdev Singh had made a statement to the effect that sale-proceeds had been shared by all co-sharers.

Having considered the rival submissions addressed before this Court, I find that it is a case where the allegations are very crisp and clear that Jawant Singh had expired in August, 2012 and that the petitioner in whose favour power of attorney had been executed by Jaswant Singh proceeded to execute the sale deed on the basis of power of attorney though such power of attorney carried no value after the executant Jaswant Singh had expired and had consequently become invalid. Since Darshan Singh-petitioner is real brother of Jawant Singh, he cannot feign ignorance about the factum of death of Jawant Singh. In other words, the sale deeds were executed by the petitioner knowing fully

well that Jaswant Singh had already expired and his power of attorney is not carrying any value. In view of the aforesaid position, I do not find any special case for grant of anticipatory bail to the petitioner. The petition is sans merit and is dismissed.

However, in view of the age of the petitioner, it is directed that in case, the petitioner chooses to surrender before the trial Court within 2 weeks from today and moves an application for grant of regular bail, the trial Court, keeping in view the age of the petitioner shall endeavour to decide the same expeditiously preferably within a period of 'three days' from filing of the application.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

The petition stands dismissed in the above mentioned terms.

**(GURVINDER SINGH GILL)
JUDGE**

11.10.2018
Gaurav Sorot

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**