IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr.No.210

CRM-M-45044-2018
Decided on:17.10.2018

Sher Singh ....petitioner

Versus

State of Haryana .....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.G.S.Sandhu, Advocate
for the petitioner

Mr.Naveen Sheoran, DAG Haryana

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ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for grant of anticipatory bail in FIR No.752 dated 01.09.2018 under Sections 120-B, 406,420,467,468,471,506 IPC, 1860, registered at Police Station Assandh District Karnal.

As per the allegations in the FIR registered at the instance of complainant Murti Devi, it is stated that she is a household lady aged about 66 years and her husband is having a shop of commission agent in grain market Assandh. The petitioner was working as an accountant for the last 10-11 years and was enjoying the faith of her family. It is further stated that the complainant is owner of a plot measuring 4 kanals in which one Ram Babu is running a nursery for the last 3-4 years and she has planted guava trees and constructed a room on the same. The petitioner on the pretext of getting a gas connection for the son of the complainant took her to Tehsil office at Assandh and got her thumb impression at several places. Since the complainant is an illiterate lady, she could not understand the contents of the documents and by trusting the petitioner she put her thumb impressions. Later on, when the complainant met the patwari, it was informed that vide sale deed dated 21.01.2015, the same stands transferred in the name of the petitioner. Alleging that the complainant and her husband came to know about the fraud played by the petitioner in connivance with one Hari Singh, Numberdar, have prepared a forged sale deed without making any payment. It is stated that the complainant is still in possession of the plot and paying the electricity bill. The property which is shown to be of Rs. 23 lacs is worth crores of rupees and there is no occasion for executing the sale deed and a fraud has been committed.

Learned counsel for the petitioner has submitted that in fact, the petitioner had executed the sale deed voluntarily by appearing before the Sub-Registrar and in the sale deed it is mentioned that the complainant has already received the total sale consideration of Rs.23 lacs for her domestic needs and therefore no amount was paid in front of Sub-Registrar.

Learned counsel has further argued that even thereafter, the complainant executed another sale deed on 03.04.2015 regarding the same agricultural land which shows that the complainant wanted to sell off her property. Counsel further submits that the husband of the complainant was having certain amount due towards one Gurmeet Singh, as per his affidavit dated 16.12.2005 and in lieu thereof, the sale deed was executed.

Learned counsel for the petitioner further submitted that the possession of the plot was handed over to the petitioner after execution of the sale deed on 30.01.2015. He had executed a lease agreement with Babu Ram for handling the plot on which fruit trees are planted. Even subsequently, for the subsequent years, similar agreement was executed between the petitioner and aforesaid Babu Ram.

Counsel for the petitioner has further submitted that the matter is of civil nature as the complainant has already filed a suit for declaration with consequential relief of permanent injunction challenging the sale deed being an outcome of fraud and the said suit is pending and petitioner has filed the written statement and is contesting the same. It is further stated that the civil Court had ordered status quo to be maintained at the spot. Learned counsel has further argued that in fact it is a civil suit being converted into a criminal litigation just to put pressure on the petitioner.

Learned State counsel, on instructions from the Investigating Officer as well as the learned counsel for the complainant, have however opposed the prayer for anticipatory bail.

It is submitted on behalf of the complainant that as per the Valuation Report of the land which is placed on record along with the photographs of the property showing the existing position, it was approximately worth four crores of rupees in 2015. Learned counsel for the complainant further submits that the complainant continued in possession of the property and she has executed the lease deed in favour of one Ram Babu on 07.08.2018 and has also placed on record certain receipts issued by the Market Committee and the bahi/ledger entries of the shop of the husband of the complainant to show that the petitioner was working as an accountant (Muneem) and was being paid the salary. Counsel for the complainant has further submitted that there is an electricity connection over the plot in dispute and the complainant is paying the electricity bills till date and she is in possession of the same. Learned counsel further argued that the disputed mutation was got sanctioned after a period of one year and with regard to the subsequent sale deed dated 03.04.2015, it is stated that a perusal of this documents shows that before executing the same, 'No Objection' from the District Town Planner was obtained and even the details of PAN Card etc.is given in the same. Whereas in the disputed sale deed, no such permission is taken and in fact, no details is given in what manner the amount of Rs.23 lacs was paid to the complainant. Learned counsel argued that the very fact that in the sale deed, it is mentioned that the total sale consideration of Rs.23 lacs was already received by the complainant raises a suspicion, as neither there was an agreement to sell nor any receipt, prior to the execution of this disputed sale deed, which shows that no sale consideration was ever received and sale deed is outcome of fraud.

I have heard learned counsel for the parties.

The mere fact that the civil suit is pending does not make out a case that it is a civil dispute. Prima facie, a perusal of the sale deed shows that nothing was paid in the presence of the Sub-Registrar and even the amount shown to be already paid to the petitioner is not paid by virtue of any prior agreement to sell or receipt and there is no reference to payment made by the cheque draft as the amount is Rs.23 lacs, which raises a suspicion. Even the role of the Sub-Registrar, who executed the sale deed without verifying the passing of the sale consideration needs to be probed during the investigation. A perusal of the subsequent sale deed itself make out that the present sale deed is suspicious. Moreover, there is a serious dispute regarding possession based on sale deed, as the electricity connection and lease deed are still in the name of the complainant. Therefore, in view of the serious allegations against the petitioner, the custodial interrogation of the petitioner is required.

I find no ground to grant the anticipatory bail in FIR No.752 dated 01.09.2018 under Sections 120-B, 406,420,467,468,471,506 IPC, registered at Police Station Assandh District Karnal.

The petition stands dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

17.10.2018
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Whether speaking/reasoned Yes/No.
Whether reportable- Yes/No