

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

CRM-M-49733-2018
Date of Decision : 19.11.2018

Vishal Kakkar Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.S.Dadwal, Advocate for the petitioner.

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

Mr. Sartej Narula, Advocate, for the complainant.

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GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.5, dated 21.4.2018, under Sections 420 and 120-B IPC (Sections 465, 467, 468 and 471 IPC added later on), Police Station NRI, District Jalandhar.
2. The aforesaid FIR was lodged at the instance of Arjan Singh Parwana wherein it has been alleged he and his family are permanent residents of UK and that originally his father Tarlok Singh Parwana and his mother Kartar Kaur were owners in possession of land measuring 9 Kanal and 12 Marlas situated at Garha Road Station, Jalandhar on which 26 shops have been constructed some of which are on rent. The complainant alleged that their attorney informed that Vishal Kakkar had filed a caveat against the

complainants alleging that he had purchased the property of the complainants whereas in fact the complainants had never sold the property to Vishal Kakkar or to anybody else and are in exclusive possession of the property and also reside in the house constructed at the back of the shops whenever they visit India.

3. Pursuant to lodging of FIR, the IGP, NRI constituted a Special Investigation Team(SIT) comprising of senior officers to inquire into the matter. Upon inquiry it was reported that Tarlok Singh Parwana and his wife Kartar Kaur i.e the parents of the complainant Arjun Singh Parwana had purchased the property in question in year 1968 from one Kewal Krishan and mutation thereof had also been sanctioned in their favour. It was further reported that a sale-certificate had been issued by Central Government on 16.1.1962 in favour of Shiv Dev Singh(predecessor-in-interest of petitioner) and although there is a mention of a property EH-8/3 but no Khasra number has been mentioned in the said certificate and that the revenue record in the shape of Jamabandi from the year 1963-64 upto 2004-2005 consistently reflects the Central government to be the owner and it was only in the year 2009-10 that mutation was incorporated in respect of sale certificate dated 16.1.1962 for the first time in favour of Shiv Dev Singh. It has been reported that the Tarlok Singh, father of the complainant had constructed 26 shops and a residential house in the property in question and that electricity and water connection are in the name of the Tarlok Singh.
4. The S.I.T. further found that shop No. 8 and 9 had been let out to Bedi Auto Engineer in the year 1991 who had been there since the last 25 years and after death of one of the partner namely MP Singh Bedi, his son Jatinder Pal

Singh Bedi started running the shop but said Jatinder Bedi, in connivance with Som Nath got a sale-deed executed in respect of one of the shops in favour of his wife Surinder Kaur. Similarly another sale deed in respect of the other shop i.e. shop no. 8 was executed in the name of Baljeet Kaur Dhillon whereas in fact it is the Parwana family who is owner of the said shops. It was revealed from inquiry that Somnath had executed 5 sale-deeds in favour of firms of Vishal Kakkar on 30.9.2015 .

5. The learned counsel for petitioner submitted that in fact the predecessor-in-interest of the petitioner is Shiv Dev Singh who had been allotted 101 marlas of land vide sale-certificate dated 16.1.1992, out of which he had already sold of 51 marlas which has never been challenged till date and that the remaining 49 Marla's was inherited by his two heirs in equal shares i.e. 24- $\frac{1}{2}$ marlas each and that the petitioner had purchased 24- $\frac{1}{2}$ Marla from one of the heir of Shiv Dev Singh. The learned counsel has further submitted that the very fact that the remaining 51 Marlas of land sold by Siv Dev Singh himself has never been challenged till date shows that sale certificate in his favour was a valid and genuine and that the complainant is in fact trying to create confusion and ambiguity so as to usurp prime land. It has further been submitted that if demarcation of the property is conducted it would be evident that it is the petitioner who is owner of the disputed property which as is also evident from the record pertaining to deposit of house tax.
6. On the other hand, the learned the learned State counsel, assisted by counsel for complainant, has opposed the application by submitting that the entire case of the petitioner hinges on a sale certificate dated 16.1.1962, which in fact is absolutely vague and there as no description of the area sold vide

said sale certificate and even though the petitioner is relying upon another sale certificate dated 30.1.1962 to stake his claim but upon verification it has been found that no such certificate dated 30.1.1962 exists as per record and that the said certificate is a forged on the basis of which mutation was illegally got sanctioned in the year 2009-10 i.e after about 50 years of the alleged sale deed. The learned State counsel submitted that it was pursuant to a detailed investigation conducted by a Special Investigation Team(SIT) comprising of senior police officers of the rank of AIG that the entire racket was unearthed which clearly shows that the petitioner in connivance with his co-accused is trying to grab the property of family of the complainant who is NRI.

7. Having considered rival submissions addressed before this Court, I find that as far as the ownership of complainant's family over land measuring 9 Kanal 12 Marlas is concerned the same has been affirmed upon inquiry inasmuch as the said land was found to be originally allotted to one Kewal Krishan who sold of the same to the parents of the complainant vide sale-deed dated 23.12.1968 regarding which mutation no. 15128 was also sanctioned in the year 1974-75.
8. Although the learned State counsel has assailed the ownership of Shiv Dev Singh, predecessor-in-interest of the petitioner but even if it is held that Shiv Dev Singh had indeed been allotted 101 marlas of land out which he had sold off 51 marlas and after his death, 49 marlas of his land had been inherited by his heirs who further sold it off but it appears that the petitioner in connivance with his co-accused, on the strength of sale deeds executed by the said heirs of Shiv Dev Singh is trying to stake his possession over the

adjacent property which is owned by family of the complainant. The factum of ownership of the complainant's family is evident from various circumstances including that the shops in question had been let out by the complainant's family regarding which there had also been litigation earlier between the tenants and the family of complainant. Further some of the tenants during the course of Inquiry are stated to have made a statement to the effect that they had been inducted as tenants by the complainant's family. Still further although the property in question had been sold to Vishal Kakkar but it has been found that the cheques towards sale consideration were never encashed which again casts suspicion as regards the nature of said transactions. Even the sale certificate No. 520 dated 30.1.1962 in favour of Shiv Dev Singh, on the basis of which the petitioner stakes his claim has not been found to be non-existent.

9. Bearing in mind the aforesated factual position, no special case is found to exist for grant of anticipatory bail. There is no merit in the application and the same is hereby dismissed.
10. There is no merit in the application and the same is hereby dismissed.

19.11.2018

mohan/pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No