

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

**Criminal Misc.No.M-5037 of 2018 (O&M)
Date of Decision : 08.02.2018**

Sanjeev Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Gaurav Partap S.Pathania, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.131 dated 05.10.2017, registered under Sections 420, 465, 466, 467, 468, 471 IPC at Police Station Division No.2, Pathankot, District Pathankot.

Briefly stated, it is a case of the prosecution that Chaman Lal, father of the petitioner, was the owner of the property in question. He died on 09.02.2013. After his death, petitioner propounded unregistered will of his father. However, his brother Ajay Kumar filed an application that the petitioner has forged the will and other documents with regard to immovable property as well as business concern of the deceased. Application for grant of anticipatory bail was filed before the Sessions Court which was also dismissed vide order dated 11.12.2017, on the ground that prima facie the will is found to be forged.

I have heard learned counsel for the petitioner and have gone

through the record.

Learned counsel for the petitioner has submitted that the affidavits dated 27.09.2013 (Annexure P-5) and 12.07.2013 (Annexure P-7 colly), of Pushpa Devi wife of Late Sh.Chaman Lal have nowhere stated that the Will is forged; that the Investigating Agency has not properly obtained the standard signatures of the deceased and the report of the Chemical Examiner is not relied upon. Learned counsel for the petitioner has further submitted that the civil suit is pending between the parties wherein issue regarding the validity of the will in-question is directly involved. To substantiate the contentions, he has placed reliance upon the judgment of Hon'ble Supreme Court in **Shashi Kumar Banerjee and others vs. Subodh Kumar Banerjee since deceased and after him his legal representatives and others 1964 AIR (SC) 529.** He has also relied upon the judgment of this Court in **Mohinder Singh (deceased) Through L.R.s vs. State of Haryana and others 2017 (2) Law Herald 1803.**

On the other hand, learned State counsel has contended that the petitioner not only forged the Will but also forged and fabricated the affidavit of Pushpa Devi and other documents.

This Court has given thoughtful consideration to the rival contentions.

Learned Additional Sessions Judge while dismissing the application for grant of anticipatory bail has specifically observed that the Chemical Examiner found that the signatures of the deceased are not tallying with the signatures on the will, therefore, the will is found to be forged.

After the death of Chaman Lal, his widow Smt. Pushpa Devi submitted affidavit dated 27.09.2013 (Annexure P-5) and in para No.2 of the said affidavit, she had specifically stated that the property movable and immovable at Khanpur, Dhangu Peer, Wood Workshop, House at Dhangu Peer, Pathankot, Tehsil Pathankot is in her ownership and in her possession. She nowhere, has stated in the affidavit that the deceased had executed any will. Similar is the position with regard to her another affidavit dated 12.07.2013 of Pushpa Devi.

Petitioner has strongly relied upon the order dated 26.09.2017, passed by the learned Civil Judge, Senior Division, Pathankot in Civil Suit No.584 of 2014 where issues were framed but said suit has come into existence after execution of Annexure P-5.

Prima facie, it has been made out that signatures of deceased Chaman Lal on the will as well as his standard signatures do not tally with each other.

Keeping in view the aforesaid facts and circumstances of the case, this Court is of the considered opinion that the custodial interrogation of the petitioner is necessary. However, the judgments relied upon by the learned counsel for the petitioners, having distinguishable facts, will not apply in the instant petition.

Accordingly, the instant petition stands dismissed.

08.02.2018
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(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No