

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

CRM-M-5274-2018(O&M)

Date of decision:-21.3.2018

Raj Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. Mohan Singh Puri, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Amit Chaudhary, Advocate
for the complainant.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner – Raj Kumar, an accused in FIR No.330 dated 27.7.2012, under Sections 420, 467, 471, 120-B IPC, registered with Police Station City, Fatehabad.

Briefly stated, the facts of the case as per prosecution story are that one Durga Devi deceased, a real sister of complainant Ishwar Devi had executed a Will No.470 dated 23.3.2009 registered in the office of Sub Registrar, Fatehabad in favour of complainant – Ishwar Devi; that after death of testatrix - Durga Devi, when complainant beneficiary went to get the mutation entered and sanctioned in her favour, she came to

know that a mutation No.1541 had already been sanctioned with regard to estate of the deceased on the basis of a forged will dated 17.6.2011 purportedly executed by Durga Devi in favour of petitioner – Raj Kumar; that Ishwar Devi had filed a civil suit against Raj Kumar claiming inheritance from testatrix Durga Devi on the basis of registered will in her favour; that suit was contested by petitioner – Raj Kumar on the basis of will dated 17.6.2011; that suit was partly decreed in favour of the complainant; that the appeals filed by both the parties were dismissed; that the Civil Court had not given any finding that will set up by petitioner – Raj Kumar is forged one inasmuch as the thumb impressions on the will in favour of Raj Kumar were not found to be comparable. FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions for grant of pre-arrest bail but his such application was declined by learned Additional Sessions Judge, Fatehabad vide order dated 25.1.2018. Feeling aggrieved, he has approached this Court for grant of similar relief.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Admittedly, the dispute between the parties is regarding estate of Durga Devi deceased. Complainant Ishwar Devi is real sister of the deceased, whereas petitioner – Raj Kumar is son of other real sister of the deceased. Both the complainant and petitioner had set up wills in their favour. However, in the civil litigation both the wills were discarded and estate of deceased was ordered to devolve by natural succession. The

Civil Courts have returned the finding that will set up by the complainant dated 23.3.2009 and the will set up by the present petitioner dated 17.6.2011 are surrounded by suspicious circumstances. However, it has nowhere been observed that will set up by the petitioner is a forged and fabricated document. The petitioner has since joined the investigation. No recovery is to be effected from him. Therefore, keeping in view the nature of the case, custodial interrogation of the petitioner is not found to be necessary and he deserves to be granted pre-arrest.

Therefore, interim bail granted to the petitioner vide order dated 21.2.2018 is made absolute, subject to his fulfilment of conditions under Sections 438(2) Cr.P.C.

Petition stands allowed accordingly.

21.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No