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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 753/2018**

SYED MASOOM AHMED

..... Petitioner

Represented by: Mr.Manoj Kumar Ohri, Sr.Advocate
with Mr.Manjeet Singh Ahluwalia,
Mr.Nawab Singh Jaglan and
Mr.Abhimanyu Singh, Advocates

versus

STATE

..... Respondent

Represented by: Ms.Rajni Gupta, APP for the State
with Insp.Nirbhay Kumar, (IO)/EOW
Mr.K.B.Upadhyay and
Mr.S.N.Tripathi, Advocates for the
complainant

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

18.07.2018

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1. By this petition, the petitioner seeks anticipatory bail in case FIR No.1/2014 under Sections 420/464/467/468/471/120-B IPC registered at PS EOW on the complaint of Bahar Murtaza Fazal Ali, Sahar Ali and Shahnaz Ali. The allegations in the FIR are in respect of fabrication and manipulating documents particularly the Will of late Sh.Faiz Murtaza Ali who died on 20th June, 2013.

2. The complainant Bahar Murtaza Fazal Ali, mother of the deceased Faiz Murtaza Ali alleges that on 27th July, 2013 she received a call from one

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Sh.Rajinder Ghogra, Advocate from Palampur, Himachal Pradesh claiming that Sh. Faiz Murtaza Ali had executed a Will in Palampur and had entrusted him with his last Will. According to the complainant, Faiz Murtaza Ali owned a house and tea estate in Gopalpur, Palampur by the name of Bahar Villa and Zen Tea Estate respectively. The lawyer informed Mrs.Bahar Murtaza Fazal Ali that he was sending a copy of the said Will to her and her family. It is the case of the complainant that the signatures of the executant on the Will were forged and fabricated and not of late Sh.Faiz Murtaza Ali. It is further alleged that on 2nd August, 2013 Rohini Wahi @ Roohani Ali forcibly entered the premises of Bahar Villa, under duress threw out the security guard and took illegal possession of the house in connivance with Faiz Murtaza Ali's driver Sunil Kumar and declared that the property i.e. Bahar Villa was owned by her in terms of the alleged Will. It is claimed that Faiz Murtaza Ali, his mother Bahar Murtaza Fazal Ali and wife Shanaz Ali enjoyed very good relationship and there was no rift between two of them.

3. Learned counsel for the petitioner contends that a suit has been filed by the complainants before the High Court of Himachal Pradesh at Shimla claiming declaration of the Will dated 14th April, 2013, which is the bone of contention in the present FIR, to be forged and fabricated and the consequential relief of injunction and possession of the suit properties i.e. Bahar Villa along with 10 acres of adjoining land that has been allegedly stated to be given as mehar or dower to Roohani Begum. Further learned counsel for the petitioner contends that three co-accused i.e. the lawyer who was allegedly in possession of the Will and the two attesting witnesses of the Will have since been granted anticipatory bail by this Court. He further

claims that the entire case of the prosecution is now based on the so called report of the FSL which suggests that the signatures of deceased Faiz Murtaza Ali on the Will are forged and fabricated and the statement of Maulvi Zafar Mehdi recorded under Section 164 Cr.P.C. wherein he stated that he never performed the nikahnama of deceased Faiz Murtaza Ali and Rohini Wahi @ Roohani Ali and that he had prepared three copies of the nikahnama, original of which was taken by the petitioner herein and a carbon copy was kept by him on the record. Learned counsel for the petitioner states that no original nikahnama is in his possession.

4. The petitioner has already joined the investigation and is no more required to join the same. Otherwise also the petitioner would be willing to join the investigation as and when directed. Civil suit and other proceedings between the parties in respect of the various properties are pending and the present FIR is only a modus operandi to exert influence and pressurise the petitioner.

5. Learned APP for the State has handed over a status report which is taken on record.

6. As per the status report, besides reiterating the allegations in FIR as noted above, it is stated that during the course of investigation, the original Will which was recovered from Tehsildar Palampur where it was deposited by Roohani Begum for registration of the property in her name has been examined forensically and as per the forensic report, the signatures of late Faiz Murtaza Ali on the Will dated 14th April, 2013 were found to be not matching. The purported nikahnama between late Faiz Murtaza Ali and Rohini Wahi @ Roohani Ali which surfaced during the investigation is

also fabricated document in view of the statement of Maulvi Zafar Mehdi recorded under Section 164 Cr.P.C. It is stated that the petitioner has played a prime role and has been in touch with all the accused. Custodial interrogation of the petitioner is required for recovery of the original nikahnama which is in possession of the petitioner as the same is to be sent for further opinion from the forensic lab.

7. It is the case of the prosecution that the petitioner had facilitated purchase of approximately 105 acres of land in Gopal Pur, Palampur in 2002 by late Faiz Murtaza Ali from Mohan Inder Singh @ Mohinder Singh S/o Late Bhupinder Singh, Maharaja of Patiala in which a general power of attorney had been executed by Faiz Murtaza Ali in favour of the petitioner. It is also stated that the call detail records of Syed Masoom Ahmed were collected and on its analysis, it was revealed that he was in constant touch with the beneficiaries of the Will. As noted above, the three co-accused namely Sh.Rajinder Ghogra, the Advocate in whose presence alleged Will was prepared and the two attesting witnesses to the purported forged Will have since been granted anticipatory bail by this Court vide order dated 26th July, 2016. The original Will has already been recovered by the investigating agency and opinion thereon sought. The only reason why the arrest of the petitioner is sought is the recovery of the original nikahnama which though Maulvi Zafar Mehdi says has been given to the petitioner but as noted in the status report, copies of the nikahnama surfaced in the proceedings inter-se the complainant and Roohani Begum. Till date no notice under Section 160 Cr.P.C. has been given to Ms.Roohani Begum except that the Investigating Officer states that efforts were made to trace

Roohani Begum at the Delhi address. Learned APP for the State further submits that one representation was received from Ms.Roohani Begum to the Investigating Officer in the year 2018 as well.

8. Considering the facts noted above, this Court deems it fit to grant anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of ₹50,000/- with one surety bond of the like amount subject to the satisfaction of the Arresting Officer/SHO concerned further subject to the condition that the petitioner will join the investigation as and when directed by the investigating Officer. Needless to state that if the petitioner does not cooperate with the investigation, the investigating agency will be free to seek cancellation of the anticipatory bail granted to the petitioner.

9. The petitioner will also not leave the country without the prior permission of the Court concerned.

10. Petition is disposed of.

11. Order dasti.

MUKTA GUPTA, J.

JULY 18, 2018

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