

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

**Crl. Misc. No.M-2319 of 2019 (O&M)
Date of Decision: March 20, 2019**

Sahil Choudhary

.....PETITIONER(s).

VERSUS

State of Punjab

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Japjit Singh Johal, Advocate
for the petitioner (s).

Ms. Ambika Bedi, A.A.G. Punjab.

Mr. Pooja Dhingra, Advocate
for the complainant.

SURINDER GUPTA, J.

This is second bail application filed under Section 438 Code of Criminal Procedure for grant of pre-arrest bail to the petitioner in case FIR No.61 dated 03.07.2018 registered for the offences punishable under Sections 420, 465, 466, 468, 471, 120-B of Indian Penal Code, at Police Station City-2, Abohar, District Fazilka.

Heard.

The case of the prosecution is that petitioner, in order to cheat the complainant, sold plot No.5 to him, which he had already sold to Amandeep vide sale deed dated 24.07.2017. Earlier bail application filed by the petitioner was dismissed with the observations in para 7 of order dated 25.10.2018, which read as follows:-

“7. Without going into merits about allegations and counter allegations, it is evident that the petitioner has

misled the revenue authorities by moving an application making false averments about the grant of stay regarding the land bearing *khasra* no. 424. A person, who has made false representation to revenue authorities and is not coming with clean hands, is not entitled to discretionary relief of anticipatory bail as per provisions of Section 438 Cr.P.C.”

Learned counsel for the petitioner submits that petitioner has argued that in the suit filed by the petitioner, learned Civil Judge (Junior Division) has passed the order as follows:-

“Report of Reader seen. Court fee made good. It be registered in the relevant register under rules. Alongwith suit, an application under order 39 rules 1 and 2 read with section 151 CPC has been filed. Heard. File perused. Before granting the *exparte* stay, I deem it proper to hear the opposite party. Notice of the suit as well as stay application to the defendants on filing of copies of plaint and stay application through ordinary process be issued for 06.12.2017. Intimation be sent to the revenue authorities through notice regarding the dispute property.”

He argues that on the basis of that order, petitioner moved application (Annexure P-4) before the revenue authorities on 25.10.2017, apprising it of the order passed by learned Civil Judge. He also moved application dated 07.11.2017 (Annexure P-5) making reference of order dated 18.10.2017 but no action was taken on this application and no *rapat* was entered in the revenue record on the basis of this application. *Rapat* No. 235 dated 09.11.2017 also makes no reference to the application (Annexure P-5). The complainant has lodged the present complaint to grab the land of petitioner.

dated 07.11.2017 (Annexure P-5), which reads as follows:-

“It is submitted that I am co-owner/co-sharer of khasra No.424 situated in village Azimgarh and dispute pertaining to this land is pending between co-sharers in the civil suit, which has been instituted in the Court of Sub Judge, Abohar. In which, stay order dated 18.10.2017 has been passed regarding registration/sanction of mutation pertaining to khasra no.424 situated in village Azimgarh, Tehsil Abohar.”

It is apparent that petitioner has misled the revenue authorities by stating that Court of Sub Judge, Abohar had passed the stay order dated 18.10.2017 regarding registration/sanctioning of mutation pertaining to khasra No.424 situated in village Azimgarh. He has also sought that intimation be sent to Patwari Halqa for not registering/sanctioning of mutation with regard to this khasra number. The petitioner was declined anticipatory bail on the ground that he had made false representation to the revenue authorities, which is apparent on perusal of his letter dated 07.11.2017. Consequently, I find no reason to exercise the discretionary power of this Court to extend the benefit of anticipatory bail to the petitioner.

This petition has no merits. Dismissed.

Keeping in view the facts and circumstances, it is ordered that in the event of petitioner surrendering before the Court and moving application seeking regular bail, the same be disposed of within 3 working days of its filing.

March 20, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No