

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

**CRM-M No. 3453 of 2019**

**Date of decision : 20.02.2019**

**Raj Kumar**

.....Petitioner

*Versus*

**State of Punjab and another**

...Respondents

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present : Mr. Divjyot Singh Sandhu, Advocate  
for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab  
for respondent No.1.

Mr. Manuj Nagrath, Advocate for  
respondent No.2-complainant.

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**DAYA CHAUDHARY, J.**

Petitioner Raj Kumar has approached this Court by way of filing the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to him in case FIR No.176 dated 22.12.2018 under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860, registered at Police Station – Sadar, Phagwara, Distt. Kapurthala.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the petitioner and other accused executed a number of sale deeds without having any authority, whereas the petitioner was not having any knowledge regarding cancellation of the power of attorney by

complainant Gurcharan Singh Atwal. Neither any notice regarding cancellation of the power of attorney was ever received by the petitioner nor this fact was brought to his knowledge. Learned counsel further submits that the case is based on documentary evidence and all the documents are in the custody of the police. No custodial interrogation of the petitioner is required. Learned counsel also submits that general power of attorney was executed by the complainant. Petitioner, being an employee of the property dealer, had executed the sale deed on the asking of his employer. All the money transactions have been done by the main accused Avtar Singh alias Babbu. Learned counsel also submits that one of the co-accused namely Surinder Gandhi, who was instrumental in getting the power of attorney, has been released on anticipatory bail vide order dated 07.01.2019. Petitioner is not having any criminal background and he is ready to join the investigation.

Learned State counsel has opposed the bail on the ground that the petitioner appeared before the Registration Authority for execution of sale deed and he had admitted that amount had been paid to him. Power of attorney dated 10.08.2009 was revoked vide cancellation deed dated 14.03.2011. Legal notice dated 18.03.2011 was served upon the petitioner as well as co-accused Boota Singh. Cancellation deed was also published in newspaper 'Daily Ajit' dated 27.05.2011. Learned State counsel also submits that the petitioner was well aware about the cancellation of power of attorney, still he executed the sale deed.

Learned counsel for the complainant has also opposed the

anticipatory bail of the petitioner by reiterating the submissions made by learned State counsel. Besides, he submits that the petitioner has misused the power of attorney which had already been revoked by the complainant. Serious allegations of cheating and misuse of power of attorney are there against the petitioner and his custodial interrogation is required. Learned counsel also submits that not only the signatures of the petitioner were there on the sale deed but the amount was also received by him.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents on file.

The FIR was registered on the basis of complaint made by complainant Gurcharan Singh Atwal by alleging that one Smt. Sukhwinder Kaur Atwal and Maninder Kaur purchased 10 Kanals land vide sale deed dated 02.02.2009. Thereafter, they both appointed the complainant as their attorney. One Sham Sunder, who was known to the complainant, brought Boota Singh and Raj Kumar (present petitioner) to him and induced that they were interested in purchasing the property. Thereafter, power of attorney dated 10.08.2009 was executed in favour of the petitioner and co-accused Boota Singh. However, later on said power of attorney was revoked vide cancellation deed dated 14.03.2011 and in this regard legal notice dated 18.03.2011 was also served upon the petitioner and co-accused Boota Singh. Said cancellation deed was also published in newspaper 'Daily Ajit' on 27.05.2011.

It is apparent that the petitioner and the co-accused were aware about cancellation of the power of attorney, still they executed a number of

sale deeds by using power of attorney dated 10.08.2009. Execution of sale deed by the petitioner has not been denied. The only ground taken by the petitioner for grant of anticipatory bail is that he was only the employee of the main accused and working under him. He was not aware about cancellation of power of attorney and the amount of sale consideration was not received by him. It has not been disputed that the signatures of the petitioner were there on the sale deed. Whether the petitioner was under pressure of the main accused or not, is a matter of evidence which shall be tested during course of trial. Moreover, the main accused is still absconding.

Concession of bail is to be granted by considering various factors like nature of offence as well as role of the accused. While granting bail, the Court is to keep in mind not only nature of allegations but severity of punishment and also the fact that crime has been committed in organized manner causing loss to the innocent person and also that there is *prima facie* material showing the involvement of the person with the main accused.

It is also to be seen that a strong *prima facie* case is made out against the petitioner to show that he along with the other accused, is involved in the commission of the offence, in spite of having knowledge, just to get undue advantage/benefit or to cause loss to the complainant party. Petitioner was well aware and executed the sale deed in spite of the fact that the power of attorney had already been cancelled. Not only the legal notice was served upon him and co-accused but it was also published in the newspaper.

By considering the conduct of the petitioner, his role and nature of offence, no ground is made out to release him on anticipatory bail. Accordingly, the present petition sans merit and hence stands dismissed.

**20.02.2019**

*sunil yadav*

**( DAYA CHAUDHARY )  
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No