

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

209

CRM-M-16594-2018 (O & M)
Date of Decision:18.09.2019

Mukhtiar Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Karanjit Singh, Advocate for the petitioners.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. B.D. Sharma, Advocate for the complainant.

MANOJ BAJAJ, J.

This petition has been filed by the petitioners under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.33 dated 06.04.2018 under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station Majitha, District Amritsar. The petitioners apprehended their arrest at the hands of Police.

Learned counsel for the petitioners contends that complainant Ravneet Kaur got this FIR registered on the ground that the land measuring 2 acres owned by her mother Balbir Kaur was fraudulently inherited by her brothers Karamjit Singh, Navjot Singh and her father Gurmeet Singh after the death of Balbir Kaur on 02.07.2013 by preparing an unregistered Will. According to him, the petitioners were the witnesses on the said instrument. He further submits that it is a dispute between the family members and petitioners have been falsely implicated and civil suit amongst those successors of deceased-Balbir Kaur is pending before the Civil Court. He further submits that on 23.04.2018 noticing the contentions in detail, interim

concession of pre-arrest bail was extended to the petitioners as the entire case of the prosecution hinges upon the documentary material. The said order dated 23.04.2018 reads as under:-

“Petitioners have approached this Court praying for grant of anticipatory bail in FIR No. 33 dated 06.04.2018 registered under Sections 420, 467, 468, 471, 120-B IPC at Police Station Majitha, District Amritsar.

It is the contention of the learned counsel for the petitioners that the allegations against the petitioners are that they are the marginal attesting witnesses of the Will, which is alleged to be a forged Will dated 02.07.2013. He contends that the complainant has herself given an affidavit dated 21.10.2013 during the mutation proceedings admitting the factum of a Will having been executed by the mother of the complainant, namely, Balbir Kaur, who is the wife of petitioner No. 3. As per the Will, the beneficiaries are Karamjit Singh and Navjot Singh, who are real brothers of the complainant. He contends that the allegations are that the said Will is a forged Will and that the signatures on the Will are antedated. He contends that no recovery has to be effected from the petitioners and the petitioners are ready and willing to join investigation and co-operate with the same.

Notice of motion, for 31.07.2018.

Mr. J.S.Thind, Advocate, has put in appearance on behalf of the complainant and has asserted that the complaint was dated 20.09.2017 and thereafter, a detailed enquiry was done and it is after getting proper verification of the handwriting expert that it has been concluded that the signatures on the Will are forged and antedated. He, therefore, contends that the petitioners, who are hand in glove with the beneficiaries, should not

be granted the concession of bail. As regards the affidavit dated 21.01.2013 (Annexure P-3), there is no specific denial on the part of the complainant on instructions from the complainant, who is present in Court, rather he states that the complainant was misled by her two brothers by asserting that these signatures are being taken for the reason that she would get 1/3rd share of the property and accordingly, the mutation has to be sanctioned in the name of all three siblings.

On a question put by this Court as to whether the complainant is illiterate, the counsel had specifically denied that and the complainant has instructed him by stating that she is B.A. B.Ed.

Having considered the submissions made by the counsel for the parties and keeping in view the fact that the petitioners are not the ultimate beneficiaries of the Will and no recovery has to be effected from the petitioners, the custodial interrogation of the petitioners, at this stage, is not required.

In the meanwhile, in the event of the arrest of the petitioners, they shall be released on bail to the satisfaction of the Arresting Officer, subject to the conditions contained in Section 438 (2) Cr. P.C. They will join the investigation as and when required.”

Learned counsel for the petitioners further contends that in deference to the said order, the petitioners submitted themselves before the Police and joined the investigation. According to him, the petitioners cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel on instructions from ASI Ramesh Kumar does not dispute this fact that the petitioners have joined the investigation.

He further states that the petitioners are not required for custodial interrogation for the time being.

On the other hand, learned counsel for the complainant has opposed the prayer by referring the order dated 04.05.2018 passed in connected case i.e. CRM-M-18497-2018, on the ground that the petitioners alongwith the brothers of the complainant were the beneficiary of the Will and they, on the basis of forged Will and a forged affidavit, got the mutation sanctioned in the names of her brothers, who were selling the ancestral property of their mother.

At this stage, learned counsel for the petitioners contends that the petitioners have no title in the property, who were the witnesses and, therefore, order dated 04.05.2018 would relate to the petitioner - Karamjit Singh, passed in the connected petition bearing No.CRM-M-18497-2018, who was the beneficiary of the Will. Even otherwise, according to him, the application under Order 39 Rule 1 and 2 CPC filed by the complainant (plaintiff) has already been dismissed by the Civil Court. This fact is not disputed by learned counsel appearing on behalf of the complainant. Since the interim injunction application stands dismissed, the order relied upon by the counsel for the complainant has lost his significance.

In view of the above, the petition is allowed and the interim bail granted by this Court vide order dated 23.04.2018 is made absolute.

18.09.2019

sheetal

(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No