

CRM-M-49911-2018 (O&M)
Date of Decision: April 12, 2019

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Mr.Sushil Jain, Advocate
for the complainant.

HARINDER SINGH SIDHU, J.

This petition has been filed seeking anticipatory bail in case FIR No.422 dated 22.7.2018 under Sections 120-B, 379, 420, 427, 447, 467, 468, 471 IPC, Police Station Safidon, District Jind.

The allegations in the FIR which was lodged on the complaint of one Subhash were that the petitioners along with Sharwan Singla @ Tillu Dairywala and his son Sunny Singla forcibly and illegally levelled the land of the complainant and his family bearing Murabba No.21, Killa No.9/1 (min) southern near DAV School. They also demolished the foundations laid by the complainant on the said land upon which the complainant had spent an amount of ₹ 4.5 lacs. They levelled / flattened the total land and removed the bricks etc. When the complainant went to his field then Rakesh

Kumar s/o Ram Chander, who was present there with his Sonalika tractor stated that the levelling had been done on the asking of Tillu Dairywala. It was alleged that the petitioners have criminal antecedents. They purchase some land, take forcible possession of adjoining land, carve out illegal colonies thereon and sell the plots. Earlier also, they had tried to take forcible possession of the land of the complainant's family by demolishing the wall as well as a room. In this regard FIR No.375 dated 26.3.2013 was registered.

Vide order dated 15.11.2018 the petitioners were directed to join investigation and disclose all facts to the police and produce all documentary evidence available with them. In the event of their arrest, they were directed to be released on interim bail. The police was asked to submit a report.

In response thereto a status report/affidavit of Sh. Aryan, Deputy Superintendent of Police, Hansi has been filed. It has been stated that though petitioner No.2 had appeared before the Investigating Officer, but he was accompanied by counsel. He himself did not reply to any question of the I.O. He is not cooperating with the investigating agency to reach any conclusion regarding the investigation.

It has been stated that the petitioners through their criminal acts have grabbed the entire land of the complainant and his family. They have tried to justify their fraud by fabricating two false '*Thekanamas*' (lease-deeds) from back dates. The first lease-deed purported to be executed on 16.5.2017 was on stamp paper purchased in May, 2018. The second lease deed was executed on 07.12.2017 with effect from an earlier date i.e.

30.04.2017 to 29.4.2018. The Killa Numbers belonging to the complainant party were included in these lease deeds of which the petitioners were never owner or in possession thereof. They demolished all the roads/ streets and the foundations of boundary walls erected by the complainant on land measuring 04 Kanal 1-1/3 Marlas comprised in Rect.No.21 Kila No.8-Min South Kila No.9/1 Min-South of Khewat No.1075 (Jamabandi 2009-10) of revenue estate Safidon which had been purchased by him vide sale-deed No.792 dated 12.06.2012. As per report No.414 dated 21.6.2018 of the Assistant Collector-cum-Tehsildar Safidon submitted to DSP Safidon the ownership and possession of the complainant and his family over the land comprised in Rect. No.21 of Kila No.8-Min South and Kila No.9/1 Min-South is well established whereas Surender Kumar (petitioner No.2) is owner in possession of land comprised in Rect. No.21 of Kila No.8-Min North & Kila No.9/1 Min- North of revenue estate Safidon.

In the status report an Affidavit dated 13.6.2018 (Annexure R-4) of Rakesh Kumar, Tractor-owner submitted to DSP Safidon has also been referred to in which the deponent stated that in November, 2017 Tillu and his son Sunny called him near DAV Public School and showing him the land adjoining the school and a constructed house on which some foundations had been laid stated that this land has been purchased from Subhash Jain (complainant) and they have become partners with Surender and Prem of Narwana (petitioners). They stated that they wanted to sow fodder for their dairy in the land. They would remove the foundations, etc. The deponent was asked to level the land by mixing the earth of the katcha roads in the land. In November, 2017 the deponent levelled the land. In

May, 2018 again on the asking of Tillu and his son Sunny the deponent dragged the soil of the land adjoining the school and a constructed house which was about two feet higher than the land to its north and levelled the entire land on 20/21.5.2018. After the complainant and his son Sandeep Jain pointed out that the land towards the South of the School and the house belongs to them and that the courts had granted a stay in their favour the deponent stopped doing any further work.

Sharwan Kumar @ Tillu Dairywala submitted an affidavit dated 28.7.2018 stating that from the very beginning he was aware of the fact that 04 Kanal land of revenue estate Safidon comprised in Khewat No.1075 Kila No.8-min (part) south and Killa No.9/1-min (part) south of Rect.No.21 which is adjoining the northern wall of Kali Ram DAV Public School and the house of Sunita Devi was owned by Meenal Jain and others and was being looked after by their father-in-law Subhash Chander Jain (complainant). Concrete foundations of boundary walls and katchi streets were existing there till November, 2017. He further stated that on the instigation of the petitioners who were his distant relatives he had got demolished the boundary walls and the foundation on the land of the complainant and his family, levelled that land and sowed animal fodder. He also admitted that under pressure and instigation of the petitioners he had executed a fake lease deed of southern and northern side of Killa No.8 and 9 of Rect.No.21 with Surrender – petitioner No.2. This was prepared in May, 2018 from a backdate. The petitioners in collusion with the Halqa Patwari Safidon got prepared a fake and false Girdawari of wheat and paddy of previous year and submitted to the police. Actually no crop had been sown

before November, 2017 on that land because roads, foundation and boundary wall had been erected thereon.

In the status report it has been submitted that both the petitioners Prem Chand and Surender Kumar along with their co-accused in the present FIR are members of gang of Land grabbers, whose modus operandi is to purchase some land and grab the adjoining lands of innocent persons and/or Panchayati (common land of different communities) and Government lands and float illegal and unauthorised colonies upon the same. Prem Nagar, Rajiv Colony, Om Vihar, etc. are the names of illegal colonies floated by them in collusion with different persons. Recently, both the petitioners in collusion with co-accused Sharwan Kumar made a forcible possession over the adjoining common land comprised in Rect.No.21 Kila NO.9/2 measuring 3 Kanal of Aggarwal and Brahmin Community left for Gaucharan (cow-grazing) against which all the leading 18-20 social organisations of Safidon along with Sh.Sharwan Garg, Member of Gau Sewa Commission, Haryana made a written complaint against accused No.3 on 15.06.2018 in Police Station Safidon. The petitioners, as stated in the complaint, have already sold a part of Gaucharan Land in the western side of their 16-17 plots mixing some part of the Gaucharan land along with their plot land in Om Vihar Colony. The petitioners have tried many times to take forcible possession of the land of the complainant's family regarding which two FIRs had already been lodged against the petitioner and others i.e., FIR No.375 dated 26.9.2013 u/s 427, 447, 506 IPC PS Safidon for demolishing the boundary wall and room of the complainant's family behind Munjhal Petrol Pump Panipat Road Safidon, and threatening the life of the

complainant and his son on the same day. FIR No.92 dated 15.03.2014 u/s 148/149/323/341/506 IPC was lodged against the present petitioners at PS Safidon when they again tried to make a forcible possession of the land of the complainant's family after assaulting the sons and employees of the complainant. In that FIR the accused/ petitioners were found innocent. Thereafter they were summoned u/s 319 Cr.P.C. by the Judicial Magistrate Ist Class, Safidon. This order was set aside by Ld. Additional Sessions Judge, Jind. The complainant's son Sandeep Kumar Jain, has challenged the same in the High Court by filing CRM-M No.40988 of 2017 which is pending.

Ld. Counsel for the petitioner has contended that admittedly the petitioners are co-sharers in the land. The have filed proceedings for partition which are pending.

Be that as it may, it appears as has been clearly mentioned in the status report filed by the respondents that the ownership and possession of the complainant and his family over the land comprised in Rect.No. 21 of Kila No.8-Min South and Kila No.9/1 Min-South which was purchased vide sale deed dated 12.06.2012 is well established. Petitioner No.2 purchased share of land measuring 4 Kanal 1 Marla 3 Sarsai in Rectangle No.21 Killa No.8, 9/1, 11/2, 12/1, 19, 22 etc. out of 9 kanal 1 marla 6 sarsai vide sale deed dated 26.3.2013. As per recital in the sale deed he did not take specific possession of any parcel of land but became a co-sharer in the joint property. He again purchased land measuring 4 Kanal 1 Marla 3 Sarsai vide sale deed dated 21.11.2013. The recital in the sale deed mentioned that possession had been delivered but no specific portion had been shown.

Without waiting for the partition proceedings to culminate the petitioners tried to take forcible possession of the land admittedly in the possession of the complainant. They removed the constructed area of the foundations etc. raised on his land by the complainant's family. They also got two forged affidavits dated 07.12.2017 and 16.05.2018 regarding handing over possession of specific portion of the land in exclusive possession of the complainant's family to Sarwan Kumar. It has also come on record that this is not the solitary case where the petitioners have acted in this manner. Their other illegal activities have been listed in the status report.

In these circumstances in my view no ground is made out for grant of anticipatory bail to the petitioners.

Dismissed.

It is clarified that any this said herein will not be construed as an expression on the merits of the case.

April 12, 2019

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(**HARINDER SINGH SIDHU**)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No