

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

CRM-M-12269-2020(O&M)

Date of decision:-15.7.2020

Nishan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Hitesh Verma Advocate
for the petitioner.

Mr.M.S.Nagra, AAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Nishan Singh, aged about 45 years, an accused in FIR No.136 dated 15.10.2019 for the offences under Sections 420/465/467/468/471/120-B IPC, registered with Police Station Sherpur, District Sangrur.

Briefly stated, the facts of the case as per the prosecution story are that complainant Balwinder Singh son of Kulwant Singh, a resident of village Fadda Patti, Sherpur had submitted a written complaint addressed to SSP, Sangrur in which he had contended that on 7.5.2018, Kulwant Singh, his father had expired; in the year 2017; Harpal Singh along with Dara Singh son of Gurbax Singh, resident of village Gurma

came to meet his father and informed that Gurbax Singh was having land at village Gurma and he wanted to sell 14 bighas of that land having motor; the complainant and his father agreed to purchase that land and went to village Gurma and saw the land, where they observed Kulwinder Kaur wife of Nishan Singh (present petitioner) and an other daughter-in-law of Gurbax Singh; all of them had shown the chunk of 14 bighas of land with motor, which they intended to sell; the complainant side agreed to purchase the land @ Rs.3,40,000/- per bigha and earnest money of Rs.10 lakhs was paid; on 20.7.2017, Gurbax Singh, Nishan Singh(present petitioner), Harpal Singh and Dara Singh came to meet the complainant side at village Sherpur and showed them 'fard jamabandi' of land at village Gurma having khewat No.263/264, khatauni No.389; they had highlighted share of Gurbax Singh in yellow colour, which was mentioned as 632/2890 coming out to be 14 bighas of land; on the fard name of the person, who had applied for was mentioned as Nishan Singh (present petitioner) and phone number was written as 94176 37551; the complainant side accordingly purchased stamp paper of Rs.2,000/- and paid Rs.6 lakhs to accused side in presence of witnesses; a sum of Rs.4 lakhs was paid on 25.7.2017, in that way, total amount of Rs.10 lakhs had been paid; the stipulated date for execution of sale deed was fixed as 7.8.2017, however on the said date, when Kulwant Singh father of the complainant had purchased stamp paper for a sum of Rs.1,22,700/- and got fard of the land agreed to be purchased revealed that share of Gurbax Singh came to be 14 biswas and there was a note of injunction on the land by order of the Court. Kulwant Singh lodged complaint with the police,

where the complainant side agreed to return the money by 30.8.2017 and requested that no criminal case be registered; therefore the complainant and his father did not press the matter, however the money was not paid as per agreement. Therefore, the complainant had submitted complaint to the police, which formed basis for registration of the formal FIR.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Sangrur vide order dated 15.2.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the records.

In this case, as per the prosecution story, agreement to sell dated 20.7.2017 was entered into between father of the complainant, namely, Kulwant Singh and father of petitioner, namely, Gurbax Singh, both of them being dead. The allegations against the petitioner are that the copy of jamabandi shown had wrong entries, which had been obtained by the present petitioner. In my considered view, this fact by itself does not go to show that petitioner had hatched any conspiracy with his father to commit any offence or he had actively participated in the commission of any offence. The petitioner has since joined the investigation, during the period of interim bail granted to him. Though learned State counsel has

contended that he has not got the copy of jamabandi in which the entries were manipulated recovered but learned counsel for the petitioner submitted that no such document exists, therefore, there is no question of handing over the same to the police. I find that it is for the investigating agency to collect evidence with regard to the allegations in the complaint. The petitioner does not come out to be direct beneficiary under the agreement and it seems that he has been involved in the case on account of the fact that his father Gurbax Singh, who is stated to have actually entered into an agreement with Kulwant Singh, father of the complainant, is no more. The dispute between the parties appears to be civil in nature. The custodial interrogation of the petitioner is not found to be necessary and it is a fit case to grant pre-arrest bail to the petitioner.

Therefore, the petition is allowed and the interim bail granted to the petitioner on 27.5.2020 is made absolute, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by a police officer as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall not leave India without the previous permission of the Court; and
- (iv) that the petitioner shall surrender his passport before the

Investigating Officer and if he is not having passport, then shall file an affidavit in that regard.

In case the petitioner violate any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail granted to him.

15.7.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No