

CRM-M-13349-2020 (O&M)

Date of decision: 31.07.2020

Nishan Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Amit Arora, Advocate
for the petitioner.**FATEH DEEP SINGH, J.(ORAL)**

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to official respondent-State.

Mr. Amit Mehta, Senior DAG, Punjab puts in appearance and accepts notice on behalf of the official respondent-State. Copy supplied.

Mr. Malkit Singh Hundal, Advocate puts in appearance of his own on behalf of the complainant.

The State has filed an affidavit of the investigating officer ASI Jaswant Singh along with Annexure which is taken on record.

The petitioner-Nishan Singh has come up in this first anticipatory bail under Section 438 Cr.P.C. in a case bearing FIR

No.08 dated 24.01.2020 under Section 376 of the Indian Penal Code registered at Police Station Chohla Sahib District, Tarn Taran.

The present case was got registered by a married lady with two kids. As per the allegations of the prosecutrix, her husband Kulwinder Singh and the petitioner were friends and had jointly entered into an agreement to sell on 06.02.2013 to buy property from Dharam Singh. It is claimed that during the course of time, Dharam Singh cancelled the agreement to sell and returned the amount and, subsequently, on 04.09.2013 alienated the same in favour of Palwinder Singh. The prosecutrix claims that on 22.01.2020 at around 11:00 AM in the morning, while her husband was away to local Gurudwara and her kids and mother-in-law were present, accused trespassed into their house and ravaged her forcibly against her wishes.

Learned counsel for the petitioner *inter alia* contends that it is a pure dispute over property which was initially purchased jointly but subsequently, Palwinder Singh managed to get it from the owner. The counsel has stressed that the present case is nothing but a pressure tactics by the prosecutrix in connivance with her husband to force the petitioner not to lay claim on the basis of the earlier documents and that there is no medical evidence to support the claim of the prosecution.

The learned State counsel assisted by counsel for the complainant have strongly opposed the grant of bail on the grounds

of heinousness of the offence and that custodial interrogation of the petitioner is very much essential.

Going through the submissions, admittedly, the prosecutrix is a grown up middle aged lady and it is duly conceded that at the time of this occurrence, her two minor sons and mother-in-law were present in the house which is located in the densely populated residential area. There is due admission by the State that neither there is any tell-tale sign of injury on the person of the prosecutrix nor any clothing of the prosecutrix have been taken into account to show that it was a forcible act against the wishes of the prosecutrix together with the fact that the parties have history of dispute over an agreement for purchase of a property and, therefore, in such circumstances, it would be travesty of justice to send the petitioner behind the bars, thus, culpability, if any, shall be determined at the time of trial.

Accordingly, the petitioner is directed to appear before the investigating officer/Magistrate within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, he will be permitted to furnish regular bail bonds to the satisfaction of

the trial Court.

The petition stands disposed off accordingly.

31.07.2020

Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No