In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-32584-2020 (O&M)
Date of Decision:-16.11.2020

Jaswant Rai … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sarju Puri, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Tara Ram.

(proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a registered vide FIR No.88 dated 20.9.2020 at Police Station Behram, District SBS Nagar under Sections 420, 465, 467, 468, 471 and 120-B of Indian Penal Code and Section 12 of Passports Act, 1967.

2. The FIR was lodged at the instance of Shiv Dutt, wherein it is alleged that marriage of his daughter was solemnized with Sukhjiwan Kumar in the year 1997. It is alleged that subsequently Sukhjiwan Kumar got a passport No.3381026 dated 8.3.1999 issued from Jalandhar in the name of Sunil Kumar and went to Spain. Another passport bearing No.2062793 was issued

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to him on 16.9.2004 while he was in Spain. It is alleged that now the petitioner Jawant Rai, brother of Sukhjiwan Kumar, had furnished a written statement with respect to issuance of Police Clearance Certificate (PCC) in favour of his brother for his permanent settlement in Spain by referring to him as Sunil Kumar.

3. The learned counsel for the petitioner has submitted that it is infact a case of some matrimonial discord between petitioner's brother and his wife on account of which the present FIR has been lodged by father-in-law of petitioner's brother simply in order to pressurize the petitioner's brother and other members of his family. The learned counsel has further submitted that the complainant was very much aware about the change of name of petitioner's brother from 'Sukhjiwan Kumar' to 'Sunil Kumar' as the first passport was issued in favour of petitioner's brother in the name of Sunil Kumar in the year 1999 and subsequently renewed from Indian consulate in Spain in the year 2004. It has been submitted that the present FIR has now been lodged after more than 20 years simply in order to unnecessarily pressurize the petitioner.

4. Opposing the petition, the learned State counsel has submitted that it is a case where there are three accused and that while petitioner's brother Sukhjiwan Kumar @ Sunil Kumar is abroad, second accused i.e. petitioner's mother already expired. The learned State counsel is not disputed the fact that the first passport in favour of petitioner's brother was issued in the year 1999 in the name of Sunil Kumar.

5. I have considered rival submissions addressed before this Court.

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6. Having regard to the facts and circumstances of the case especially that it is a case where the passport in favour of petitioner's brother was issued about two decades back by referring his name as Sunil Kumar and that the petitioner cannot be said to be beneficiary in any manner and is simply alleged to have now made a statement in favour of his brother for Police Clearance Certificate (PCC), this Court finds that it is a case based mainly on documentary evidence. As such, custodial interrogation of the petitioner is not warranted. The petition, as such, is accepted and the petitioner, in the event of his arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

16.11.2020 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No

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