

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37397-2020

Date of Decision: 09.12.2020

Jaswinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. G.S.Sandhu, Advocate,
for the petitioner.

Mr. Mehardeep Singh Dulat, Addl. A.G. Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

Status report by way of an affidavit of Gurpreet Singh, PPS, Assistant Commissioner of Police (West), Ludhiana, has been filed on behalf of respondent-State by way of e-mail. A print out of the same is hereby taken on record. The Registry is directed to tag the same at appropriate place and paginate it accordingly.

The learned counsel for the petitioner has submitted that the petitioner has been roped up in the present case and falsely implicated. He has further submitted that even otherwise also no case is made out on the face of it. The learned counsel has submitted that the complainant namely Gurminder Kaur Dhaliwal has lodged the FIR by asserting that by way of registered will by Jagdish Kaur, on 06.06.2016, upto 25% of the share was given to one Sudarshan Kumar and 75% of the share was given to the daughter-in-law and the learned counsel has further submitted that as per the FIR, the complainant has alleged that the will was false and fabricated will because there was no

occasion with her to execute such a will. The learned counsel has further pointed out to the status report, which has been filed by the police, in which it is stated that on examination, it was found, on the basis of FSL report, that the ink of the signatures of Mohinder Singh and Ripjit Singh pre-exist and the contents of the will have been typed lateron. The learned counsel for the petitioner has submitted that once the will has been registered then a presumption of truth attaches with the same and the police has no authority to arrive at a conclusion and to rebut the presumption by way of police investigation. He has further submitted that the scope of declaring a registered will to be void on the basis forgery is best with the Civil Court. He has further submitted that the present case pertains to a civil dispute, which has been given a flavour of criminal dispute. The learned counsel has further submitted that so far as the petitioner is concerned, he was only a marginal witness to the will and therefore, he has been falsely implicated in the present case. The learned counsel has also submitted that even the Lambardar, who had signed the registered will, namely, Baldeep Singh has also been granted anticipatory bail by the Co-ordinate Bench of this Court, vide order dated 29.09.2020, in CRM-M-20920-2020. Furthermore, even the subsequent transferee, namely, Navraj Singh Grewal has also been granted anticipatory bail by the Co-ordinate Bench of this Court in CRM-M-18076-2020, vide order dated 29.09.2020. The learned counsel has further submitted that even otherwise also custodial investigation of the petitioner would not be required in the present case as all the documents are already with the police and therefore, the custody of the petitioner would be curtailment of his right to liberty.

On the other hand, the learned State counsel, while referring to the status report filed by the police, has submitted that it is correct that the

petitioner was only a marginal witness and it is also correct that the will was a registered will. However, he has submitted that on the investigation, it was found that as per the FSL report, the ink of the signatures of Mohinder Singh and Ripjit Singh was pre-existing and the contents of the will have been typed later on and therefore, has prayed for the dismissal of the anticipatory bail.

While further referring to the affidavit, he has further submitted that the purpose of custodial investigation in the present case was to know the modus operandi of the crime.

I have heard learned counsel for the parties.

It is the case where admittedly the will is a registered will and therefore, presumption of valid execution would be a relevant factor. The petitioner is admittedly a marginal witness and therefore, the stand taken by the State that custodial investigation is required for the purpose of ascertaining the modus operandi would not carry any weight. The presumption regarding registered document unless it is rebutted is important factor. So far as the petitioner is concerned, he is not the beneficiary of the will. Apart from this, all the documents are available with the police and the police is still investigating the case. It is not the case of the State that in case, the petitioner is granted bail, then he would influence any of the witnesses.

Apart from this, the Lambardar of the village, namely, Baldeep Singh, who was also a witness, has already been granted bail by the Co-ordinate Bench of this Court and furthermore, the subsequent transferee, namely, Navraj Singh Grewal, has also been granted anticipatory bail by the Co-ordinate Bench of this Court.

Therefore, considering the totality of circumstances of the present case, I deem it fit and proper to allow the present petition. In view of the

above, the present petition is allowed. In the event of any need of arrest of the petitioner, then the petitioner shall be admitted to bail subject to the satisfaction of the Investigating Officer/Arresting Officer and the petitioner shall abide by all the conditions which have been contained in Section 438(2) of the Code of Criminal Procedure.

Petition stands allowed.

09.12.2020
adhikari

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No