

CRM-M-51647-2019 (O&M)

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

Decided on: February 19, 2020.

(1) CRM-M-51647-2019 (O&M).

Satyanarain

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

(2) CRM-M-51881-2019 (O&M).

Basant

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

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CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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**PRESENT Mr.P.R.Yadav, Advocate,
 for the petitioner in both the petitions.**

Mr.Gaurav Bansal, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present order will dispose of the above noted two petitions i.e. CRM-M-51647-2019 filed by Satyanarain and CRM-M-51881-2019 filed by Basant, under Section 438 of the Code of Criminal Procedure (for short the 'Cr.P.C.'), for the grant of anticipatory bail in FIR No.0242 dated 16.08.2019, under Sections 342, 365, 406, 420, 120-B IPC, registered at Police Station, Kasola, Tehsil Bawal, District Rewari, Haryana.

FIR in the present case was lodged at the behest of one Basanti widow of Babu Lal alleging that his son namely Rakesh who is a feeble minded person was enticed and abducted by the accused who by fraud and conspiracy got registered a sale deed from him at Tehsil Bawal.

As per the contents of the FIR, Rakesh was holding 4 *kanals* of land and after abducting him, the accused persons got a sale deed executed in favour of accused Birender Singh, because of the feeble mind of Rakesh who is stated to be 19 years of age and that a fraud has been committed upon him. It is further stated that the complainant is a widow and her husband had died long time ago and therefore, the present FIR has been lodged by her on discovering the alleged fraudulent acts committed by the

accused.

Learned counsel for the petitioners has argued that in the present case on 17.7.2019, a sale deed was executed vide Annexure P4, by Rakesh of his own free will and that he had not only put thumb impressions upon the sale deed but also signed at some places and therefore, it cannot be said that Rakesh was illiterate and feeble minded person. He has further submitted that a presumption of willingness is attached to the execution of the sale deed which has been registered by the Tehsildar in the presence of above stated Rakesh.

Learned counsel for the petitioner has further submitted that so far as the two petitioners namely Satyanarain and Basant are concerned, they have been wrongly roped up in the present FIR because they are neither the signatories nor vendees nor the beneficiaries of the sale deed. He has further submitted that so far as the petitioners are concerned, no role could have been assigned to them because they have nothing to do with the sale deed and they are not even signatory at any place. He has further submitted that the amount of Rs.15 lacs was deposited in the name of Rakesh in the bank account and to substantiate the same, he has attached the bank statement of Rakesh vide Annexure P5. He has further pointed out to the affidavit of Rakesh, Annexure P6, to show that he had executed the sale deed and received the sale consideration which was deposited in the bank account and that he has no concern with the above mentioned land and that he had sold the same of his free will and consent and without any threat, pressure or allurement and for his personal needs. Therefore, the learned

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counsel for the petitioners prays for the grant of anticipatory bail to them.

On the other hand, learned State counsel has argued that the present petitioners are named in the FIR as they were part of the conspiracy and have been actively involved in the fraud which has been committed against Rakesh, a feeble mind person. He has further submitted that going by the sequence of events the sale deed was registered on 17.7.2019 in the name of co-accused Varinder Singh and that vide Annexure P5, the account statement of the bank would show that on 17th the account was opened with Rs.3,000/- and thereafter, on 18th, Rs.15 lacs were deposited in the name of Rakesh. The bank statement further shows that the said amount was thereafter, immediately transferred from the account of Rakesh in the name of other co-accused namely Abhey Ram and Pardeep. He has further stated that the accused are now absconding and are on the run. The bank statement which has been attached as Annexure P5 would show that on 18.7.2019, the amount of Rs.15 lacs was deposited in the name of Rakesh and within a few days the entire amount was transferred in the name of afore-stated Abhey Ram and Pardeep.

So far as the petitioners are concerned, aforesaid Pardeep is brother-in-law of Basant and resides in another village and both the petitioners are close relatives.

Learned State counsel has further augmented his argument by stating that father of Rakesh died on 13.4.2009 and after ten years the application for mutation was made by rakesh vide Annexure P2 on 9.7.2019 and thereafter, on 17.7.2019, the sale deed was registered. He has

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further submitted that Annexure P6 affidavit which has been relied upon by the petitioners is dated 25.7.2019 which is about a week after the registration of the sale deed and when the money already stood transferred out of the account of Rakesh then the affidavit has been made. He has stated that there was no need of execution of such an affidavit after a week of the sale deed. He has argued that the accused persons induced Rakesh to furnish such an affidavit which was otherwise not required under the law.

The implication of the present petitioners would also be evident from the fact that these petitioners are in possession of all these documents which they have themselves attached with the present petition including the bank account statement of Rakesh and the affidavit filed by Rakesh.

Another argument which has been raised by the learned State counsel is that on investigation, it was found that there was a CCTV camera installed in the bank where the account was opened in the name of Rakesh on 17.7.2019. He submitted that in the CCTV camera footage, both the petitioners namely Satyanarain and Basant are present in the bank when the account was opened. He further submitted that the argument raised by the learned counsel for the petitioners that the petitioners have nothing to do with the registration of the sale deed or that they are not even the signatory to the sale deed, is rendered nugatory in view of the fact that in the CCTV footage they are found present in the bank premises where the account itself was opened and thereafter, the money was siphoned off in the name of Abhey Ram and Pardeep who are the relatives of the petitioners and

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therefore, the learned State counsel submits that it was a well planned conspiracy to commit fraud upon a boy who is feeble minded person and has lost his father about 10 years ago. It has also been submitted by the learned State counsel that there are 5 other cases pending against Basant and therefore, his antecedents are also not good and as such, he submits that custodial interrogation of the petitioners is required for further investigation of the matter in a proper manner and therefore, prays for dismissal of both the petitions.

I have heard the learned counsel for the petitioners as well as learned State counsel and perused the paper book.

Learned counsel for the petitioners has built up his case on the ground that the petitioners are neither the signatories of the sale deed nor they are the beneficiaries of the sale deed nor they have any connection with the sale deed and therefore, they have been wrongly roped up in the present FIR. However the stand of the learned State counsel is that they are part of well planned conspiracy which is evident from the fact that on the date of the registration of the sale deed i.e. on 17.7.2019, the bank account was opened in the name of Rakesh and thereafter, the sale consideration was deposited at the time of registration of the sale deed in the said bank account of Rakesh and after a few days, the entire money was transferred in the name of Abhey Ram and Pardeep from which it is clear that some kind of wrong has been committed. So far as the connection of the petitioners to the alleged crime is concerned, they were present in the bank on 17.7.2019 when the account was opened and the fact as stated by the learned State

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counsel that they are appearing in the CCTV footage is extremely an important factor for the purpose of deciding the present petition.

The sequence of events which has been collected during investigation and demonstrated by the learned State counsel are certainly determinative factors from where it can safely be concluded that there would certainly be need for custodial interrogation of the petitioners.

In view of totality of the circumstances, I do not deem it fit and appropriate to grant the concession of anticipatory bail to the petitioners and as such, both the petitions are hereby dismissed.

Interim orders dated 5.12.2019 and 6.12.2019 granting interim protection to the petitioners stand vacated.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

A copy of the order be placed on the file of connected case.

February 19, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No