

108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2531-2021
Date of Decision : 19.01.2021

Shruti **....Petitioner**

Versus

State of Haryana **....Respondent**

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Fateh Saini, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

This is a petition under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in FIR No.186 dated 07.07.2020 under Sections 406, 420, 506 of IPC and (Sections 467, 468, 471 IPC added later on) at Police Station Civil Line, District Kaithal.

Learned counsel for the petitioner submits that as per allegations in the FIR, mother of the petitioner, namely Krishna, performed marriage with one Hari Ram. The petitioner and her brother Sanyog, are children of pre-deceased husband of Krishna. The marriage was performed on 10.12.1984 and Krishna and Hari Ram were residing as husband and wife.

Learned counsel for the petitioner further submits that Hari Ram died on 18.11.2008. Hari Ram was the owner of two properties, the plot and a land. The petitioner, her brother and mother inherited the said property and sold the same to two different persons. The plot was sold to one Sarupi Devi on 15.02.2010 and the land was sold to one Birmati on 16.06.2010. Later on, one Kamla Devi and her two sons filed civil suit against Krishna, petitioner Shruti and his brother Sanyog in which, the daughters of Hari Ram were reported as performa defendants No.4 to 6.

The prayer in the said suit was that Kamla Devi was the legally wedded wife of Hari Ram and during the subsistence of the marriage, he has performed marriage with Krishna which is not legal and therefore, they are entitled to inherit the property of deceased Hari Ram.

The said civil suit was decreed on 23.03.2013 by declaring the plaintiffs Kamla Devi and others, and her daughters who were performants defendants No.4 to 6, to be the owner of the above two properties and further, a decree of possession was passed in their favour. The appeal filed by Krishna was dismissed by the Lower Appellate Court.

Learned counsel for the petitioner further submits that after 10 years, the present FIR has been registered with the allegation that the defendant Nos. 1 to 3 in the aforesaid suit has sold the property by misappropriating the same and committed an offence by cheating and fraud.

Learned counsel for the petitioner further submits that in fact two FIRs were registered with regard to said two plots and in the earlier FIR No.9 dated 07.01.2020 under Sections 406, 420, 467, 468 and 471 IPC, registered at Police Station Civil Line, District Kaithal, the petitioner has already been granted the concession of anticipatory bail by the Additional Sessions Judge, Kaithal on 26.02.2020.

Learned counsel for the petitioner further submits that there is no explanation in the FIR about the delay in registration of the same except that the civil litigation was pending.

Learned counsel for the petitioner further argues about the *locus standi* of the complainant to register the FIR, as the counsel for the petitioner submits that in fact, the aggrieved party, if any, would be the purchaser of the two properties who had purchased the same for *bona fide* consideration and since the Civil Court has granted the title as well as the right of possession in favour of

the complainant (herein in the FIR), the FIR against the petitioner will not be maintainable.

Notice of Motion.

Mr. Sumit Jain, Addl. A.G., Haryana, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and has not disputed the factual position. It is also not disputed that petitioner has already been granted concession of anticipatory bail by the Additional Sessions Judge in another FIR as noticed above.

After hearing counsel for the parties, without making comment on the merits of the case, considering the aforesaid submissions of learned counsel for the parties and looking into the allegations, the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation, if required, by issuing her a written notice in this regard.

19.01.2021

Waseem/Chetan

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No