

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

CRM-M-12216-2021(O&M)

Date of decision:-6.4.2021

Surmukh Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.M.S. Batth, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Surmukh Singh, aged about 64 years, resident of village Khawaspura, Tehsil and District Rupnagar, an accused in FIR No.0005 dated 23.1.2020, under Sections 420, 465, 467, 468, 471 IPC (offence under Section 120-B IPC added later on), registered with Police Station Sadar,Rupnagar.

Briefly stated, the facts of the case as per the prosecution story are that one Vasudev Singh was owner of landed property; he had expired in the year 2003; one Kesar Singh in conspiracy with co-accused Surmukh Singh (present petitioner) and Mohinder Singh, Lambardar of village Mansuha Kalan etc. got one power of attorney executed in his

favour in the year 2006 and then Kesar Singh sold the property of Vasudev Singh; on coming to know about this fraud, Charanjit Singh, attorney of Harjit Singh son of Vasudev Singh got the FIR in question recorded to the effect that Swaran Singh son of Joginder Singh in connivance with his associates had got the land transferred in his name and then further sold it of.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions at Rupnagar seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Rupnagar, however, his such application was dismissed by learned Additional Sessions Judge, Rupnagar vide detailed order dated 1.3.2021. As such, the present petitioner has come to this Court by way of filing the instant petition praying for the similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

Learned Additional Sessions Judge, Rupnagar has observed in para No.9 of her order as under:

Apparently, from the allegations in the FIR and from the investigation, it reveals that the land of Vasudev Singh, who died on 11.02.2003, has been sold out by co-accused Kesar Singh on the

basis of Power of Attorney which is allegedly forged one and was admittedly signed by the present applicant-accused being witness of the said Power of Attorney. Therefore, the custodial interrogation of the applicant-accused is required for obtaining his signatures and for probing into the matter that if any financial benefits have been obtained by the present applicant-accused in the present case. The land of Vasudev Singh has been sold out in a planned manner after his death. The applicant-accused remained absconded in the present F.I.R. Keeping in view, the allegations levelled against the applicant-accused, he is not entitled to anticipatory bail. Hence, the same stands dismissed. Police record be returned. Bail application be consigned to the Record Room.

I find myself in agreement with such observations recorded by Additional Sessions Judge, Rupnagar.

The custodial interrogation of the petitioner is found to be necessary to find out as to how the fraudulent transaction was planned and executed, the persons, who took part therein and role played by each one of them. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Even otherwise the present petitioner had indulged in a heinous crime by identifying an impersonator as Vasudev Singh when as a matter of fact Vasudev Singh had died much earlier.

In case of **State represented by the C.B.I. Versus Anil**

Sharma, 1997(4) R.C.R.(Criminal) 268, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Finding no merits in the petition, the same stands dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

6.4.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No