

CRM-M No.16028 of 2021

Date of decision: 15.09.2021

Dharminder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

Coram: Hon'ble Mr. Justice B.S. Walia

Present : Mr. Beant Singh Seemar, Advocate for the petitioner.
Mr. Aditya Sharda, AAG, Punjab.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.59 dated 09.03.2019, registered under Section 82 of the Registration Act at Police Station Sahnewal, District Ludhiana.

3. On 09.04.2021, the following order was passed:-

“ The matter has been taken up through video conferencing.

Learned counsel for the petitioner inter alia contends that through Will dated 08.02.1967 Kartar Singh bequeathed the property in question to his son Ajaib Singh; on 11.05.2010, Ajaib Singh transferred the said property to his daughters Daljit Kaur and Abnash Kaur; Ajaib Singh's sons namely Surinder Singh and Amarjit Singh challenged the aforesaid transfer through a civil suit; along with the civil suit they filed an application under Order 39 Rules 1 & 2 CPC which was dismissed by the Trial Court; on appeal the Appellate Court granted status quo; against the order of status quo a revision petition was preferred before this Court by Daljit Kaur and Abnash Kaur which was allowed; against the order of this Court Surinder Singh and Amarjit Singh filed a Special Leave Petition before the Supreme Court which was disposed of with a direction to the Trial Court to dispose of the civil suit pending

between the parties expeditiously with a further direction that in case the property in question has been/is transferred, the same shall abide by the final outcome of the afore referred civil suit and that this fact shall be made clear by the Registering Authority in the transfer deeds; the present FIR has been registered under Section 82 of the Registration Act on the ground that the petitioner being the power of attorney holder of Abnash Kaur, transferred a part of the land in question to Amit Garg and Ajay Garg without bringing to their notice the pendency of the civil suit between the siblings; that the transfer of the property in question was permitted by the Supreme Court and it was for the Registering Authority to record in the transfer deeds the factum of pendency of litigation between the siblings; in any case nonrecital of the pending litigation was a bona fide error on the part of the petitioner for which custodial interrogation is not necessary; in any case, after getting to know about the pending civil suit the vendees namely Amit Garg and Ajay Garg have not raised any objection to the transfer of the property in their names; there is no other criminal case pending against the petitioner and that he is also ready and willing to join the investigation as and when called by the investigating agency.

Notice of motion.

Mr. Randhir Singh Thind DAG, Punjab accepts notice on behalf of the respondent-State.

For arguments, adjourned to 10.08.2021.

In the meanwhile subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.59 dated 09.03.2019 under Section 82 of the Registration Act registered at Police Station Sahnewal, district Ludhiana, he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer. ”

4. Today, learned counsel for the petitioner contends while learned State Counsel on instructions from ASI Gurmeet Singh, confirms that pursuant to the order of this Court dated 09.04.2021, the petitioner

joined investigation, fully cooperated with the police, was released on ad interim pre arrest bail and that his custodial interrogation is not required besides, co-accused, who are similarly situated as the petitioner have been released on pre-arrest bail vide order dated 15.07.2019 passed in CRM-M No.15226 of 2019 by the Co-ordinate Bench of this Court.

5. Although on the last date i.e. 10.08.2021, Mr. Inderjit Singh Luthra, Advocate had put in appearance on behalf of the complainant and requested for time to argue the matter, however, today despite the case having been called out twice i.e. in the morning session, as well as in the post lunch, none is present on behalf of the complainant.

6. Accordingly, in view of the statement of learned State Counsel, order dated 09.04.2021, passed by this Court, is made absolute. The petitioner shall abide with the conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

7. Petition stands *disposed of* in the aforementioned terms.

(B.S. Walia)
Judge

15.09.2021

'Rajneesh/Amit'

Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No.