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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19109-2020 (O&M)
Date of decision-18.08.2021

PARDEEP KUMAR

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab.

Mr. Saurabh Bhatia, Advocate
for the complainant.

MANOJ BAJAJ, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.32 dated 17.06.2020 under Sections 419, 420, 465, 467, 468, 471 & 120-B Indian Penal Code & under Sections 81/82 Registration Act, 1908, registered at Police Station Block Majri, District SAS Nagar, Mohali. The petitioner apprehended his arrest at the hands of Police, in the above FIR.

On 06.01.2021 the following order was passed:-

“Heard.

Learned Senior counsel contends that by virtue of the sale deed No.1496 dated 18.09.2015, the title of the property was transferred in the name of the petitioner and the complainant, who is stranger to the transaction lodged the FIR and alleged that the said instrument was executed by impersonation. It is pointed out that the complainant has already

instituted a civil suit (Annexure P-5) for declaration based on adverse possession and for setting-aside the said sale deed and his prayer for ad-interim injunction has been declined. It is further contended that the dispute, if any, is purely of civil nature and the custodial interrogation of the petitioner may not be necessary.

Adjourned to 22.04.2021.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that the petitioner has joined the investigation and cooperated with the police. This fact is not disputed by the learned State counsel assisted by ASI Kesar Singh who further states that the civil suit between the parties is also pending.

Learned counsel for the complainant has vehemently opposed the prayer and argued that the petitioner is involved in such kind of activities, who after identifying the alleged properties, executes such kind of sale deeds by way of impersonation. However, it is not disputed by the learned counsel for the complainant that the civil suit filed by him seeking declaration regarding his title in the property on the basis of adverse possession is pending adjudication.

During the course of hearing, learned counsel for the complainant has not disputed this fact that he was not present when the alleged instrument of sale deed was executed between the vendors and the vendees, but has expressed his suspicion that as the vendors have left the village, therefore, it is quite possible that they are no more.

After hearing learned counsels for the parties and considering

the above, it is apparent that the entire case of prosecution is founded upon documentary material and the presumption drawn by the learned counsel for the complainant regarding vendors is not substantiated with any proof. Admittedly, the sale deed was never challenged by the sellers or their successor in interest, therefore, this Court without expressing any opinion that on the merits of the case finds that the custodial interrogation of the petitioner may not be necessary.

Resultantly, the order dated 06.01.2021 is made absolute.

18.08.2021

Vipin kumar

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned :

Whether Reportable :

Yes

Yes

No

No