

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

CRM-M-24070-2021 (O&M)
Date of Decision:- 8.9.2021

Amit Kumar Goyal @ Ashu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. S.S.Grewal, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Mohan Singh.

Mr. Piyush Setia, Advocate for respondent No. 2.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No. 120 dated 16.10.2020 under Sections 420, 465, 467, 468, 171, 457, 380/120-B IPC at Police Station City-2 Abohar, District Fazilka.
2. The FIR was lodged at the instance of Ajay Kumar wherein it is alleged that previously he alongwith his brother Sanjay Kumar used to reside alongwith family in a house situated at Street No. 3, Azimgarh, Abohar and that Khasra number of the said property was 402(5-9), out of which their share was to the extent of 9/218 i.e. 4½ marlas. The said plot had been purchased by complainant's father Santokh Chand from Kailash Rani vide sale deed dated 25.8.2011. In the year 2014, the complainant, his brother and their families shifted to New Delhi. Later, when their father expired and in the year 2017, he and his brother locked the household items in their house at Abohar in

two rooms and gave possession of the remaining three rooms to Ramesh Kumar on mortgage for 11 months i.e. from August, 2018 to July, 2019 for an amount of ₹ 2.5 lacs and the said mortgage was in the name of Amit Kumar Goyal son of Ramesh Kumar Goyal. It is alleged that Ramesh Kumar Goyal and his family, however, prepared forged documents in respect of the said house and the wife of Ramesh Kumar Goyal i.e. Raj Rani got the said house transferred in the name of her husband Ramesh Kumar Goyal in the year 2019 and did not vacate the house even after expiry of the mortgage period, which was all done by the members of the family of Ramesh Kumar Goyal. It is alleged that the household articles of the complainant lying in the two rooms have also been misappropriated by the accused.

3. The learned counsel for the petitioner has submitted that a false FIR has been lodged against the petitioner and other members of his family and that the Jamabandi for the year 2011-12 (Annexure P-2) would show that Raj Rani i.e. mother of the petitioner is recorded as owner to the extent of 18/436 share in khasra No. 402 (5-9). It has further been submitted that in any case a perusal of the FIR would show that the allegations are mainly levelled against father of the petitioner namely Ramesh Kumar Goyal and petitioner's mother namely Raj Rani, who is alleged to have transferred the house in question in the name of her husband and that the petitioner has no role to play in the said transfer.
4. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that the complicity of the petitioner is writ large from the facts of the case and that apart from being son of Ramesh Kumar Goyal and Raj Rani, it is the petitioner in whose favour, the mortgage had

been effected and who alongwith other members of the family has chosen not to hand over the possession back to complainant. The learned counsel has further submitted that in the instant case, the accused i.e. the family of the petitioner had attempted to take advantage of certain incorrect entries in the revenue record wherein some land was still being shown in the name of Raj Rani whereas she had already sold the land in question and it was solely on account of the mutation not having been effected that the entries still carried on in favour of Raj Rani. The learned State counsel has submitted that the entire family has connived with each other and had prepared a Transfer Deed showing transfer of land in question by Raj Rani in favour of her husband whereas there was no occasion for effecting any such transfer and that the only explanation to justify such transfer between wife and husband can be that the same was done to deprive someone else of his property.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the complainant's father Santokh Chand had purchased land measuring $4\frac{1}{2}$ marlas i.e. 9/218 share in khasra No. 405(5-9) from Kailash Rani vide sale deed dated 25.8.2011. During the course of investigation, the police has collected evidence to the effect that infact Raj Rani (mother of petitioner) was also a share holder in the said khasra number, having purchased 11 marlas of land i.e. 22/218 share in khasra no. 402 (5-9) from Parvati Devi vide sale deed dated 25.7.1992. Later, she disposed off the said 11 marlas of land in the following manner :-
 - (i) $4\frac{1}{2}$ marlas sold to Rameshwar Kumar and Krishan Kumar vide sale deed dated 7.10.1992. **(MUTATION NOT EFFECTED).**

(ii) 2 marlas sold to Sharda Devi vide sale deed dated 2.7.1993
(**MUTATION SANCTIONED VIDE MUTATION NO.14000
DATED 28.1.1994**).

(iii) 4½ marlas sold to Amritpal Singh vide sale deed dated 17.10.1995
(**MUTATION SANCTIONED VIDE MUTATION NO.15692
DATED 31.10.1995**).

7. It is apparent from the aforesaid three sale deeds that the entire share of Raj Rani which was to the extent of 22/218 i.e. 11 marlas in khasra No. 402 (5-9) stood disposed off and Raj Rani was left with no share in the said khasra number. However, on account of the fact that mutation in respect of the sale deed dated 7.10.1992 regarding 4½ marla land was not effected in the revenue record, the revenue record continued in her name in respect of 4½ marlas and the entire family connived with each other and resultantly Raj Rani executed a transfer deed in favour of her husband without their being any need or justification for the same. The petitioner who had been put in possession of the property in question on the basis of a mortgage deed executed amongst the petitioner and the complainant cannot feign ignorance about the said facts on part of his parents and it is but apparent that he was fully in connivance with the other accused for depriving the complainant of his property by way of execution of a transfer deed when infact Raj Rani did not have any share left in the khasra number. The petitioner has been evading arrest since the last about one year and had earlier also approached this Court seeking anticipatory bail but had later withdrawn the same. In these circumstances, this Court does not find any special case for grant of anticipatory bail.

8. The petition is sans merit and is hereby dismissed.

8.9.2021
kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No