

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

CRM-M-44292-2021
Date of decision: 22.10.2021

Joginder Thakur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:- Mr. Ashok Singla, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Mr. Onkar Singh Batalvi, Advocate
for the complainants.

AUGUSTINE GEORGE MASIH, J.

This petition under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') has been filed by the petitioner for grant of anticipatory bail in FIR No.206, dated 05.10.2021, under Sections 417, 419, 420, 465, 466, 467, 468, 471 and 120-B of the Indian Penal Code, registered at Police Station Sujampur, District Pathankot.

2. It is the contention of the learned counsel for the petitioner that the petitioner is a regular deed writer and scribes the documents. A petition under Section 482 of Cr.P.C. i.e. CRM-M-29249-2021, titled as 'Suresh Mahajan & another Vs. State of Punjab & others', was filed by complainants – Suresh Mahajan and Shweta Mahajan praying for issuance of a direction to the police authorities to take action against the private respondents and their associates for misappropriation of property of the complainants by

impersonation and for extending threats to eliminate them or implicate them in false cases. Complainants, therefore, sought directions for protection of their lives and liberty at the hands of the private respondents. Representations were submitted by the complainants to the Inspector General of Police, Border Range, Amritsar, in this regard but no action was being taken thereon.

The case came up for hearing before this Court on 28.07.2021 when the same was disposed of with directions to the Inspector General of Police, Border Range, Amritsar, to look into the representations submitted by the complainants and decide the same in accordance with law by passing a speaking order within a period of two months. In pursuance to the said order, enquiry was held leading to the registration of FIR No.206, dated 05.10.2021, under Sections 417, 419, 420, 465, 466, 467, 468, 471 and 120-B of Indian Penal Code, at Police Station Sujanpur, District Pathankot.

3. Learned counsel for the petitioner points out that the petitioner was not named in the said FIR nor was he mentioned as an accused in any manner by the complainants. The accused therein were the vendees i.e. Manoj Kumar, Neetu Bala daughter of Manish Arora and alleged impersonator Raman Kumar son of Vishwanath and Renu Sharma wife of aforesaid Manoj Kumar and the witnesses of the sale deed i.e. Amarjit Singh Nambardar and one Vijay Kumar as also the officials of the Sub Registrar Office i.e. Daniel Masih, Parmod Kumar and Smt. Parshotma Devi. Counsel contends that the petitioner is neither a witness of the sale deed nor has he identified the alleged seller or anybody else. He is not the beneficiary of the transaction in question and therefore, has no connection

whatsoever even remotely with the alleged offence except the fact that he is the deed writer. Petitioner has clean antecedents as there is no case registered against the petitioner except for the now involvement of the petitioner having been shown in the present FIR.

Counsel for the petitioner has placed reliance upon Sections 30 to 35 of the Registration Act, 1908 with specific emphasis on Sections 34 and 35 thereof. His contention is that it is the duty and responsibility cast upon the Registering Officer to enquire into the matter whether or not the document has been executed by the person(s) by whom it is purported to have been executed. The identity of the person(s) appearing before him has/have also to be verified and satisfaction has to be reached by the Registering Officer. The onus is, therefore, upon the Registering Officer not only with regard to the person(s) executing the documents but also with regard to the satisfaction of the person(s) who is/are witnesses to the such executed document(s). He, therefore, contends that the petitioner is an innocent person, who has been forcibly involved in the case for the simple reason that he is the deed writer and had drafted the said deed at the instance and on instructions of the persons who had approached him. No recovery has to be effected from the petitioner as all the documents are in the custody of the Investigating Agency. Petitioner is ready and willing to join the investigation and cooperate with the same as the bail is the rule and jail is an exception.

4. Counsel has further made an effort to argue the case that while obtaining the order dated 28.07.2021 in CRM-M-29249-2021, the complainants had not come to the Court with clean hands as they had not

disclosed the fact that they have also initiated criminal proceedings in Delhi. The directions which have been obtained by the complainants for decision on their representations by the Inspector General of Police, Border Range, Amritsar, is, thus, misuse of process of Court and law and therefore, the petitioner be granted the benefit as prayed for.

5. Learned Deputy Advocate General, Punjab as well as the counsel for the complainants have argued that the petitioner is the real culprit and the manipulator and the offence which has been committed is the brainchild of the petitioner, who had not only prepared the documents but has been the master and guide for commission of such crime. Petitioner had tried to project himself as an innocent deed writer as if knowing nothing and being a scribe has simply written the deed, however, during the enquiry by the Inspector General of Police, Border Range, Amritsar, when being questioned, petitioner has spilled his own beans when he acknowledged the fact that he personally knows Amarjit Singh Nambardar and Vijay Kumar, the witnesses. He also acknowledged the fact that Amarjit Singh Nambardar did not personally know the seller or purchaser and that the Nambardar had identified the seller and the purchaser on his asking. He goes to the extent by accepting that usually it happens whenever some person comes for registry and he does not have witness, then he offer person(s) to witness, who could be the witness to the same. He has also acknowledged the fact that he had written the registry but had not mentioned the Aadhar Card number of the seller or the purchaser. This clearly shows that the petitioner was the person, who had actively participated in the commission of the crime and had it not been for the petitioner, who had facilitated the

perpetuation of the crime, the said registry would not have been executed. On this basis, counsel for the State as well as counsel for the complainants have opposed the prayer of the petitioner.

6. Having considered the submissions made by the learned counsel for the parties and on going through the records of the case especially the enquiry report, where the statement of the persons concerned have been recorded by the Inspector General of Police, Border Range, Amritsar, which has been appended with the present petition as Annexure P-1, there is a *prima facie* evidence and material available against the petitioner indicating his active role in the commission of the crime as he is not only the scribe of the deed but has also provided the witnesses. Even these witnesses i.e. Amarjit Singh Nambardar and Vijay Kumar acknowledged the fact that they did not know either the seller or the purchaser. It is apparent that the petitioner without verifying the identity of the seller or the purchaser, proceeded to draft the document when he was required to do so. Not only that, he had provided the witnesses to wrongly identify them and help in the process in impersonation, leading to fraud having been played upon the complainants apart from other offences which have been committed by him. His involvement in the commission of the crime is apparent and therefore, concession as sought for by the petitioner for grant of anticipatory bail cannot be accepted.

7. In the light of the fact that the petitioner had acknowledged the fact in his statement during the enquiry that he had been making available the witnesses, wherever the persons asked for such witnesses to the deeds drafted by him, interrogation of the petitioner is required to establish his

nexus not only in the present case but in other similar matters where he would have facilitated such crimes to be committed. Counsel for the complainant has pointed out that there are certain other complaints also pending against the petitioner which are under enquiry.

8. In view of the above, finding the present case not fit for accepting the prayer of the petitioner, the present petition stands dismissed.

22.10.2021
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No