

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

Date of decision: 06.12.2021

1. CRM-M-45681-2021 (O&M)

Danial Masih @ Daniel Masih

Petitioner

Versus

State of Punjab

Respondent

2. CRM-M-45996-2021

Parmod Kumar @ Parbodh Kumar

Petitioner

Versus

State of Punjab

Respondent

3. CRM-M-47517-2021

Manoj Kumar and others

Petitioners

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sartej Singh Narula, Advocate for the petitioner
in CRM-M-45681-2021.

Mr. Surinder Garg, Advocate for the petitioner
in CRM-M-45996-2021.

Mr. Kamaldeep S. Sidhu, Advocate for the petitioners
in CRM-M-47517-2021.

Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab
assisted by S.I. Pawan Kumar.

Mr. Onkar Singh Batalvi, Advocate and
Mr. Tarun Aggarwal, Advocate for the complainants.

AVNEESH JHINGAN, J. (Oral)

[1] These three petitions under Section 438 Cr.P.C. have been filed seeking anticipatory bail in F.I.R. No. 206, dated 5th October, 2021 under Sections 417, 419, 420, 465, 466, 467, 468, 471 and 120-B IPC, registered at Police Station Sujanpur, District Pathankot.

[2] The facts in brief are that CRM-M-29249-2021 was filed in this Court raising grievance that no action was being taken on complaint made by Suresh Mahajan and Shweta Mahajan. The petition was disposed of with the direction to Inspector General of Police, Border Range, Amritsar to decide the representations dated 23rd September, 2020, 20th January, 2021 and 28th April, 2021 by passing speaking order. Thereafter, F.I.R. No. 206 was registered. The allegations are that on 4th February, 2016, the land measuring 1 Kanal and 12.37 Marlas situated at Mamoon Cantt., Tehsil Pathankot, belonging to Suresh Mahajan was sold to Manoj Kumar and Raman Kumar impersonated as Suresh Mahajan. On the same day, land measuring 1 Kanal and 6 Marlas owned by Shweta Mahajan was sold to Neetu Bala where Renu Sharma wife of Manoj Kumar impersonated as Shweta Mahajan. The complainant on gaining knowledge of mischief applied for copies of sale deeds. On 17th October, 2017, Danial Masih, Registry Clerk issued a copy of sale deed in which photographs of Raman Kumar and Renu Sharma were attached as vendors. Subsequently when copies of sale deeds were supplied to the complainants in December, 2017 the photographs of Raman Kumar and Renu Sharma were changed with the photographs of Suresh Mahajan and Shweta Mahajan.

[3] Mr. Sartej Singh Narula, learned counsel appearing for Danial Masih @ Daniel Masih (petitioner in CRM-M-45681-2021) submits that sale deeds were issued under the signatures of Sub-

Registrar and not of the petitioner. The petitioner remained posted at the seat of Registry Clerk from 2nd July, 2017 to 6th June, 2018 and not on date when sale deeds were registered on 4th February, 2016. The argument is that apart from Danial Masih another Clerk was also posted as Registry Clerk. It is further argued that petitioner also had additional charge of Registry Clerk in D.C. Office. Submission is that Clerks who remained posted on the seat in February, 2016 have not been nominated as accused. It is contended that Parmod Kumar was Computer Operator in February, 2016, he is posted on the seat till date. The petitioner was nominated on the disclosure statement of Parmod Kumar but the petitioner is not a beneficiary. There is no specific date on which the alleged tampering of record took place. He relies upon inquiry conducted by the S.D.M. to the effect that roles of other officials posted at relevant time needed to be looked into. Further he points out flaws in the inquiry report of the S.D.M. To conclude the argument, he submits that at the most the case under Section 201 IPC would be made out against Danial Masih as only the copies available in the office record were allegedly tampered with whereas original copies were handed over to the parties at the time of registration.

[4] Mr. Surinder Garg, learned counsel appearing for Parmod Kumar @ Parbodh Kumar (petitioner in CRM-M-45996-2021) submits that petitioner was associated during the inquiry held by the Inspector General of Police. The stand of the petitioner was that he handed over the computer record to the office of N.I.C. at Gurdaspur. It is further argued that complainants lodged F.I.R. No. 794, dated 17th November, 2019 against Sulakhan Singh, Manager of Suresh Mahajan alleging therein that the property documents of the complainants were stolen by the Manager and further sold to Manoj Kumar. He submits that Parmod Kumar was nominated in the F.I.R., no truth was found in the allegations made by the complainant and cancellation report was filed.

[5] Mr. Kamaldeep S. Sidhu, learned counsel appearing for Manoj Kumar, Renu Sharma and Raman Kumar (petitioners in CRM-M-47517-2021) on instructions submits that he is not disputing that Raman Kumar and Renu Sharma impersonated as Suresh Mahajan and Shweta Mahajan respectively for getting the sale deeds registered on 4th February, 2016. The contention is that there is back drop of the present F.I.R. as Manoj Kumar got registered an F.I.R. on 22nd October, 2017 at Police Station Noorpur, District Kangra alleging cheating by Suresh Mahajan. Thereafter, Suresh Mahajan filed a complaint on 26th October, 2017 raising similar allegations as in the present F.I.R. The matter was compromised, resultantly complaint was withdrawn and F.I.R. was cancelled. It is further argued that in F.I.R. No. 794, dated 17th November, 2019 registered at Police Station Samaypur Baadli, New Delhi, Manoj Kumar, Raman Kumar and Renu Sharma were nominated. Manoj Kumar and Raman Kumar were arrested but ultimately police filed cancellation report. Manoj Kumar filed a complaint with Vigilance Department, Delhi alleging high handedness of Delhi Police in F.I.R. No. 794. An inquiry was held and it was found that Delhi Police during investigation brought Manoj Kumar and Raman Kumar to Pathankot and were made to stay in a Hotel. Learned counsel contends that in the C.C.T.V. Footage of the Hotel, Parmod Kumar can be seen carrying luggage of Suresh Mahajan. The argument is that Parmod Kumar is hand in glove with Suresh Mahajan. The contention is that complainants have filed civil suit on 15th October, 2020 challenging the sale deeds and for claiming compensation. It is submitted that subsequent tampering of the sale deeds would have got no benefit to the petitioners as only photographs on the first page were changed and not the photograph on the endorsement. He contends that complainants were already possessing copies of sale deeds issued to them in October, 2017, there was no prudence for the petitioners to tamper with the record as it would have been self evident. Submission is that there are no allegations against Raman Kumar and Renu Sharma

of tampering the record.

[6] Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab opposes the prayers made and relies upon the pleadings of the reply filed. He submits that learned counsel appearing for Manoj Kumar, Raman Kumar and Renu Sharma has not disputed the impersonation by Raman Kumar and Renu Sharma in place of Suresh Mahajan and Shweta Mahajan respectively, for getting the sale deeds registered on 4th February, 2016. His submission is that after directions of the High Court, the matter was enquired into by the Inspector General of Police, Border Range, Amritsar. During inquiry Tehsildar in his statement stated that copies of sale deeds issued were signed by him but custodian of the record was Danial Masih and Parmod Kumar was incharge of the computerised record. The contention is that the copies of sale deeds maintained in the Sub-Registrar office were removed from the record, therefore custodial interrogation is required. Learned counsel submits that photographs on the endorsement of the registered sale deeds were intentionally blurred to ensure that the persons cannot be recognized.

[7] Mr. Onkar Singh Batalvi, learned counsel for the complainants contends that all the accused in connivance have sold land belonging to the complainants. The earlier compromise was entered by complainants to buy peace of mind but that too was not adhered to.

[8] Generally this Court desist from going in detailed findings in the petitions for anticipatory bail. However due to insistence of learned counsel for the petitioners and there being detailed arguments, the same are being dealt with only for the purpose of deciding the anticipatory bail.

[9] The F.I.R. was registered after initial inquiry conducted by S.D.M. and Inspector General of Police. The fact that in the year 2018, compromise was entered between accused in complaint and Suresh Mahajan and Shweta Mahajan, itself would not be a ground to hold that present F.I.R. cannot be registered. The allegations are serious. No dispute is being raised on behalf of Manoj Kumar and Renu Sharma that there was impersonation of the vendors in the year 2016 for getting the sale deeds registered. From the perusal of the material before this Court, it is born out that photographs on the first page of copy of the sale deed issued in October, 2017 and December, 2017 are different. As per the prosecution, the photographs clicked with the computer for endorsement of the sale deed were intentionally blurred to facilitate the tampering and to make them unidentifiable. The changing of the photographs is allegedly between October, 2017 and December, 2017 and as per the State, Danial Maish was one of the Registry Clerk and custodian of the physical record. He was specifically named by Parmod Kumar. The contention that copies of sale deeds were issued under the signatures of Sub-Registrar cannot be construed to mean that Danial Masih was not custodian of record from 2nd July, 2017 to 6th June, 2018.

[10] The contention raised by learned counsel for Danial Maish that other employees have not been nominated will not enhance the case for grant of anticipatory bail. There is no bar on the investigating agency to make further nominations and the F.I.R. is only initiation of criminal machinery.

[11] The contention that Danial Maish was not posted as Registry Clerk in 2016 i.e. the year of registration of sale deeds needs consideration from another angle. In the year 2016 the sale deeds were registered by impersonation but the act to changing the record to cover up impersonation was done between October, 2017 to December, 2017. It is not disputed that Danial Masih was custodian of the physical

record at the relevant time. The argument that case of the prosecution at best is that Danial Masih tampered with copies only needs no expounding at this stage. The allegations are that record maintained in the office of Registrar was tampered and it is evident from the fact that two copies of sale deeds supplied in October, 2017 and December, 2017 bear different photographs of the vendors. The official record for future reference was forged and on the basis of this record certified copies are issued, when asked for. There are serious allegations of government officials misusing their positions for changing the records in connivance with the private persons.

[12] Parmod Kumar continued as Computer Operator from the year 2016 when the sale deeds were registered to till date. In inquiry, he made a statement that computer record was sent to the office of NIC at Gurdaspur. However, on verification same was found not to be received there. It would be appropriate to note at this stage that as per prosecution, it was Parmod Kumar who clicked group photographs from the Camera attached to the computer. He was having domain and access to the computerized record and as such without his connivance, the photographs on the hard copy of endorsement of sale deeds could not have been blurred.

[13] The State in its reply filed has attached print out of endorsement recovered from the computer operated by Parmod Kumar. The print out are clear and persons can be identified whereas copies of sale deeds issued bear blurred photographs which apparently was done to facilitate forgery.

[14] The contention that Manoj Kumar, Renu Sharma and Raman Kumar were found innocent in F.I.R. registered at Delhi are not required to be dealt with in detail. However, suffice to say that allegations in that F.I.R. were with regard to theft of documents by

Manager of the complainants and further selling of those documents to Manoj Kumar and others. The allegations of theft were found false. In the present case, Raman Kumar and Renu Sharma impersonated as Suresh Mahajan and Shweta Mahajan. Considering the seriousness of the allegations as also the evidence collected till date, deeper probe is required for determining the *modus operandi* adopted as also to unearth other aspects involved.

[15] It is well settled that filing of the civil suit for annulling of sale deeds by the complainant does not debar initiation of criminal proceedings where cognizable offence is made out. The fact that earlier complaint filed on similar allegations as in the present F.I.R. was withdrawn on the basis of compromise is of no help. As in the present case record of Sub-Registrar pertaining to registered sale deeds was tampered with that too in connivance of the officials of the department. The conduct of the accused in changing the photographs in the copies issued in October, 2017 and December, 2017 and removing the hard copy from record of Sub-Registrar *prima facie* discloses commission of cognizable offence and is an indicator of necessity of custodial interrogation for further probe of the matter.

[16] The argument raised that inquiry held by the S.D.M. has number of flaws need not be addressed at this stage. The case is to be set up by the prosecution on the material and evidence collected during the investigation. Considering the seriousness of allegations, it would be necessary to identify the role played by each of the accused. The *modus operandi* cannot be unearthed if petitioners are clothed with protection of pre-arrest bail.

[17] The petitions are dismissed.

[18] On the cost of repetition, it is clarified that observations

made hereinabove are only for the purpose of deciding the petitions for anticipatory bail and shall not be construed as an expression of opinion on the merits of the cases.

[19] Since the main cases have been decided, the pending application, if any, stands disposed of.

[20] Photocopy of this order be placed on the files of connected cases.

[AVNEESH JHINGAN]
JUDGE

6th December, 2021
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |