IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.49281 of 2021 (O&M)
Decided on: 10.12.2021

Amita Brar

....Petitioner

Versus

State of U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. J.S. Toor, APP, U.T., Chandigarh.

Mr. P.K. Mutneja, Sr. Advocate
with Mr. Satyam Tandon, Advocate
for the complainant.

ARVIND SINGH SANGWAN J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.151 dated 06.10.2021 registered under Sections 420,467, 468, 471 and 120-B IPC at Police Station Central Sector 17, Chandigarh.

Though it is well settled principle of law as held by the Hon'ble Supreme Court that the order deciding the bail application should be precise and concise, however, considering the fact that lengthy arguments are advanced by both the sides, relying upon number documents, therefore, all the points are dealt with in this order.

Counsel for the petitioner has argued that the petitioner is a lady aged about 69 years and is falsely implicated in the present FIR, registered on the complaint given by Vikramjit Kaushik alleging that the petitioner and her husband Dipinder Singh Brar had sold 50% of their share of House No.20, Sector 5, Chandigarh, but thereafter, they refused to hand over the possession of the said property/house. Counsel for the petitioner has further submitted that from the bare perusal of the FIR neither any offence under Sections 409, 419, 420 IPC is made out nor the offence under Sections 465, 467, 468, 475 IPC is made out against the petitioner.

Counsel for the petitioner has also submitted that in fact, this FIR is an outcome of a counter-blast to the earlier FIR registered by the petitioner i.e. FIR No.208 dated 02.10.2021 under Sections 409,419, 420, 465, 467, 468, 471, 120-B IPC, with the allegation that the petitioner is having strained relations with her husband Dipinder Singh Brar, who by misusing her GPA has firstly open a joint account in Canara Bank, Chandigarh and then, in Equitas Small Finance Bank Private Limited, Mohali, without the consent and knowledge of the petitioner and has forged her signature in the documents presented with the said Bank and thereafter, on 04.09.2020, submitted a cheque for Rs.4.23 crores and another cheque dated 04.09.2020 for Rs.1,66,32,750/-. It is further submitted that in the FIR, the petitioner has also given the details of a civil suit filed by her against her husband Dipinder Singh Brar and the complainant for having illegally sold her 25%share in the aforesaid House No.20, Sector 5 Chandigarh.

With regard to the allegations in the present FIR, counsel for the petitioner has submitted that as per complainant, Dipinder Singh Brar accused No.1, Amita Brar @ Amita Bhanot @ Anita Bhanot, accused No.2/petitioner were owner of 25% share each in House No.20, Sector 5, Chandigarh. Dipinder Singh Brar sold his 25% share for Rs.6.23 crores through sale deed dated 04.09.2020, registered before the Sub-Registrar, Chandigarh. Similarly, the petitioner sold her 25% share through her GPA i.e. her husband Dipinder Singh Brar. The GPA was registered on 20.09.2012 before the Sub-Registrar, Sri Muktsar Sahib, Punjab and by the second sale deed of the same day i.e. 04.09.2020, the petitioner also accepted Rs.6.23 crores and this sale deed was also registered before the Sub-Registrar, Chandigarh. It is stated in the FIR that both accused Nos.1 and 2 sold 50% share of the house, more particularly the ground floor portion of the house and in that respect, the Estate Officer, Chandigarh has issued two transfer letters dated 15.10.2021 in favour of the complainant but both the accused have refused to vacate the house and hand over the physical possession of the same. When the complainant approached accused persons, they refused and later on, he came to know that they have started damaging the house and have extended threats to the complainant and rather they are trying to create a third party interest by letting it out to a third person. The police on receiving the complaint verified the fact and in the police proceedings, it is noticed that the petitioner has also given a complaint dated 16.11.2020 that her husband Dipinder Singh Brar in connivance with the complainant Vikramjit Kaushik, Chetan Kashyap and Anil Sachdeva has sold her 25% share to the present complainant Vikramjit Kaushik by forging her signatures on an affidavit and objection withdrawal request by submitting the same before the Estate Officer, Chandigarh. it is also observed that the petitioner has alleged that her husband has opened 02 joint accounts by forging her signatures on the account opening form and she has also filed a separate suit praying for cancellation of the sale deed regarding illegal sale of her 25% share in the house.

The police proceedings further record that the original relevant documents in question, were procured and the same were sent to the CFSL, Sector 36, Chandigarh for comparison and as per the opinion of the expert of CFSL, the signatures of the petitioner Dr. Amita Brar, were found to be forged. During the enquiry, Vikramjit Kaushik has also submitted his complaint along with all the documents regarding the transfer of amount for the share of petitioner of Rs.6.23 crores as well as the agreement dated 09.10.2020 regarding the sale of 25% by Ritika Brar, daughter of the petitioner through her father Dipinder Singh Brar and out of the said amount, the complainant paid Rs.2.50 crores to Ritika through Dipinder Singh Brar by bank transfer. The complainant further alleged that both the husband and wife in conspiracy with each other and by playing fraud grabed the amount of Rs.14.96 crores received towards 50% share of the house, despite execution of the 02 sale deeds.

It is also recorded that the complainant also alleged that the petitioner cancelled the GPA of 20.09.2012 subsequent to registration of the sale deed, though as per the GPA, she has authorized her husband Dipinder Singh Brar to deal with the property in Chandigarh as well.

The police proceedings further record that the complainant has stated that the petitioner and her husband has opened a joint account in Canara Bank, Chandigarh however later on, a joint application was submitted by them with a clever intention that inadvertently they had opened a joint account and the name of the petitioner be deleted whereas in the said complaint, there was no allegation that her husband Dipinder Singh Brar has played any fraud with her while executing the sale deed of her 25% share. Accordingly, after going through all the documents, the FIR was registered.

Counsel for the petitioner has submitted that House No.20, Sector 5, Chandigarh, is owned by 04 persons i.e. Dipinder Singh Brar, the petitioner – Amita Brar, their daughter Ritika Brar, who is residing in U.K. and daughter Sunamika Brar, all having 25% share in the said house. it is further submitted that the accused persons have, in fact, fabricated 04 documents. Firstly, an affidavit which was used to execute the sale deed in the absence of the petitioner, it is submitted that this affidavit records a consent of the petitioner that she had executed an attorney in favour of her husband Dipinder Singh Brar for executing sale of 25% share of the house.

Counsel for the petitioner has further submitted that the second document which is forged by the complainant and her husband is a letter addressed to the Estate Officer on 01.09.2020, in which a request was made to withdraw the objection filed by the petitioner vide letter dated 24.01.2020 with a prayer that she has no objection for transfer of share in favour of intended buyer as her husband Dipinder Singh Brar is authorized to sold the property. It is also submitted that the third document which is forged is the account opening form for opening a joint account in Canara Bank wherein Rs.29.00 lacs were transferred in the joint account and the petitioner on receiving an SMS on her mobile phone that some amount is deposited in the said joint account (as her mobile number was given in the said account), later on moved an application for withdrawal of her name in the said account. It is further argued that the fourth document is another account opening form in Equitas Small Finance Bank where again, the signatures of the petitioner were forged by her husband by opening a joint account.

Counsel for the petitioner has further submitted that the account was opened on the same day i.e. 24.09.2020 and 02 cheques of Rs.1,36,750/- and Rs.4.23 crores were credited in the aforesaid account and then, the same were transferred in the account of Dipinder Singh Brar as per the bank statement. It is also submitted that the relationship of the petitioner with her husband were strained since 2010 as the petitioner has relied upon certain complaints given to the local police, who have registered the DDRs by visiting the place of residence and even relied upon a Kalendra vide which the proceedings under Section 107/150 Cr.P.C. dated 31.07.2012 were initiated against Dipinder Singh Brar. It is further argued that even the daughter of the petitioner namely Sunamika Brar recorded a statement before the Sub-Divisional Magistrate, Chandigarh that her father – Dipinder Singh Brar is in possession of a fire-arm weapon and he can cause bodily harm to her family members and therefore, the same may be withdrawn and the licence be cancelled/withdrawn and in this regard, another DDR was registered on 04.07.2011.

Counsel for the petitioner has, thus, argued that the husband of the petitioner in connivance with the complainant has, in fact, sold away the share of the petitioner in a fraudulent manner for which, she has already filed a civil suit and registered an FIR against her husband as well as the complainant side in Mohali, Punjab.

The learned counsel appearing for the U.T., Chandigarh, has opposed the prayer for bail on the ground that in fact, both the petitioner as well as her husband are hand in glove with each other as they are creating evidence that they are not having cordial relationship, though, both of them are residing together in the same house throughout the period when they lodged a complaint against each other and in fact, in a calculated manner, the complaints were made to create some evidence that they are not on talking terms. It is further submitted that the complainant has agreed to purchase 25% share of Dipinder Singh Brar for a sale consideration of Rs.6.23 crores, the same sale consideration was fixed for 25% share of the petitioner as well as her daughter Ritika Brar, who is staying abroad and in that process, all the 03 persons have allured the complainant to part away Rs.14.90 crores and by duping him, they have now, refused to hand over the possession of the house and have started claiming that the sale deed is an outcome of fraud. It is also argued that the contention of the petitioner that the Canara Bank joint account was, in fact, opened by forging the signature of the petitioner by her husband Dipinder Singh Brar is in fact a calculated move by the petitioner as when subsequently, she gave a joint application to the Manager, Canara Bank, she only stated that inadvertently, a joint account has been opened and her name be deleted whereas she has nowhere stated in the said application that Dipinder Singh Brar has ever forged her signatures while opening the joint account.

Counsel for the U.T., Chandigarh has further submitted that the petitioner in a calculated move has smartly changed her signatures so that the same may not tally with her standard signatures and in that process, she has denied her signatures on all the 04 documents relied upon by her. It is also argued that in fact the letter of withdrawal dated 01.09.2020 addressed to the Estate Officer, U.T., Chandigarh, is a part of the execution of the 02 sale deeds, one in favour of Dipinder Singh Brar and the other in favour of the petitioner.

Counsel for the U.T., Chandigarh has next argued that on one hand the petitioner is setting up a case that she was having strained relationship with her husband, however from 2012 onwards when the GPA was given in favour of Dipinder Singh Brar, she never revoked the same till the time the sale deed was executed and rather 20 days thereafter, she revoked the GPA and throughout this period, the GPA was alive as it was even endorsed by the Registrar, Sri Muktsar Sahib when a verification was sought by Dipinder Singh Brar on 28.07.2020 and on payment of a stamp duty of Rs.18.69 lacs, by the complainant the endorsement was made by the Sub-Registrar, Sri Muktsar Sahib that the GPA is still valid. It is further submitted that since the GPA was registered with the Registrar, Sri Muktsar Sahib, the verification was properly done by the same Sub-Registrar as it was the requirement of the Sub-Registrar, Chandigarh that an endorsement on an old GPA be made by the concerned Sub-Registrar. it is also submitted that there was no occasion for the complainant to deposit Rs.18.69 lacs for the purpose of mere verification of the GPA and this was well within the knowledge of the petitioner. It is further submitted that even with regard to the joint account opened with Equitas Small Finance Private Limited, the petitioner has not raised any objection with the Bank where the 02 cheques were deposited on 07.09.2020 (Rs.1,66,32,750) and second on 20.10.2020 (Rs.4.20 crores (approx.)). It is also submitted that the grounds taken in the present application and the grounds taken in the civil suit are at variance as the petitioner is moulding the facts according to her convenience.

The learned senior counsel appearing for the complainant has additionally argued that the deal of the share of both the petitioner as well as her husband was not done in a single day as on various occasions, the documents were prepared, verified by the competent offices and the petitioner was well aware of all the developments as her husband was residing in the same house with the petitioner.

Learned senior counsel for the complainant has further submitted that they have handed over certain videos as well as a communication by her daughter Ritika Brar with the complainant Vikramjit Kaushik to police. The said videos were displayed in the Court. In one video as per the learned State counsel as well as learned senior counsel for the complainant, the petitioner in presence of her husband is signing certain documents in the presence of the complainant and in the other videos, their daughter Ritika Brar is requesting the complainant to pay Rs.2.50 crores to her father as she is acknowledging that there is a deal between them to sell her 25% share of the house for Rs.6.23 crores and in the WhatsApp communication also, Ritika Brar has acknowledged to Vikramjit Kaushik that the deal is final and she has given authority to her father to collect Rs.2.25 crores from the complainant. it is further submitted that all these act show that much prior to the execution of the sale deeds the talks were going on which is a normal course before the sale/purchase of a property.

Learned senior counsel for the complainant has also relied upon the aforesaid communication jointly sent by the petitioner and her husband to the Manager, Canara Bank on 13.08.2020. The contents of the same, reads as under:-

> *"Dear Sir,*
>
> *With reference to the above, a savings account number as mentioned above was opened with your branch and inadvertently, it was opened as a joint account.*
>
> *We write to request that this account may kindly be converted into a single ownership account by deleting the following name:- AMITA BRAR."*

Learned senior counsel for the complainant has further submitted that even on 03.08.2021, the petitioner has given a request to withdraw the complaints given to the investigating agency though on an earlier occasion, the Enquiry Officer has recommended to register an FIR on 10.07.2021 however later on, when the petitioner succeeded in getting the FIR No.208 of 2021 registered in Police Station Mataur, as she resiled and in the intervening period, Dipinder Singh Brar was arrested.

Learned senior counsel for the complainant has also argued that when on 24.01.2020, the petitioner has made a request to the Estate Officer, U.T., Chandigarh, not to entertain any request regarding sale/mortgage, etc. of the house, the Estate Officer, U.T., Chandigarh, on 18.05.2020, has informed the petitioner that the property is a freehold property and therefore, no NOC is required for the aforesaid purpose. It is further submitted that these communications also show that the petitioner knew that a deal for sale of her share is going on and she was just creating evidence to be used at a subsequent stage.

In reply, counsel for the petitioner has submitted that the custodial interrogation of the petitioner is not required as nothing is to be recovered and the petitioner has already registered an FIR against her husband i.e. co-accused Dipinder Singh Brar at Mohali, for committing cheating for selling her share to the complainant on the basis of the GPA.

After hearing the counsel for the parties, I find no merit in the present petition:-

(a) The argument raised by the petitioner that she has strained relations with her husband/co-accused Dipinder Singh Brar is, in fact, appears to be a novel method to usurp the huge amount paid by the complainant.

Though, the petitioner has set up that she has given a GPA on 20.09.2012, registered before the Sub-Registrar, Sri Muktsar Sahib, Punjab, qua 25% of her share which includes some properties in Punjab as well as the property at Chandigarh, however in a calculated move, she was giving complaint against her husband/co-

accused Dipinder Singh Brar, to create some evidence about their strained relationship. The very fact that from the year 2012 to 2020, there was no complaint between both of them and especially, the fact that the GPA given by the petitioner to her husband Dipinder Singh Brar, remained alive throughout this period, show that there were no such strained relationship despite the fact that on an earlier occasion, some complaints regarding minor truffles in the matrimonial life were reported to the police prior to registration of G.P.A. on 20.09.2012.

(b) Even otherwise, when the joint account was opened in Canara Bank, the mobile phone number of the petitioner was given where Rs.29.00 lacs were deposited but the petitioner never complained to the bank authorities that the said joint account was opened by playing fraud and she only stated that her name be deleted from the said joint account and the same be treated as a single operational account and rather when the second joint account was opened in Equitas Small Finance Bank Private Limited, Mohali, where crores of rupees were transferred by the purchaser/complainant, the petitioner had every knowledge about the activity of her husband/co-accused Dipinder Singh Brar, who was in the process of selling 25% share of the petitioner and no complaint was given to Equitas Small Finance Bank.

(c) More surprisingly, once the petitioner came

to know about any such act of her husband/co-accused Dipinder Singh Brar, she has allegedly given a complaint to the Estate Officer, Chandigarh on 01.09.2020, not to deal with her share of her property. In ordinary course, a man of prudence would immediately cancelled the GPA in such circumstances, to avoid sale of the property owned by the person executing the GPA, rather when the complainant paid huge amount of Rs.18.69 lacs for seeking an endorsement from the Sub-Registrar, Sri Muktsar Sahib as stamp duty to seek an endorsement that the GPA is still alive (the original GPA was also issued by the same Registrar), it cannot be said that the petitioner was not having any knowledge that Dipinder Singh Brar, on her behalf, is dealing with the complainant regarding 25% share of her house.

The fact that after the sale deed was executed, the petitioner cancelled the GPA, also reflects that she was waiting that on allurement by the accused persons, the complainant may part away huge amount in crores of rupees and later on, by setting up a defence of cheating, at the hands of her own husband i.e. co-accused Dipinder Singh Brar, the petitioner is trying to escape and has filed the civil suit.

(d) Not only this, even her daughter namely Ritika Brar, who is residing in U.K., has authorized her father to deal with her 25% share of house and has

instructed the complainant to pay Rs.2.50 crores to her through Dipinder Singh Brar, by bank transfer.

(e) The argument raised by counsel for the U.T., Chandigarh, that there is evidence of the video conference on WhatsApp as well as messages sent by Ritika Brar to the complainant acknowledging her wish to sell her share of her house through her father Dipinder Singh Brar, find force as all the 03 shares of Dipinder Singh Brar, the petitioner – Amita Brar as well as their daughter Ritika Brar, to the extent of 25% each were agreed to be sold @ Rs.6.23 crores per share. This all show that the petitioner is in hand-in-glove with her husband Dipinder Singh Brar and the complaints given by her are nothing but a novel method to avoid the deal at a subsequent stage in a calculated manner.

(f) The argument raised by learned senior counsel for the complainant that the complainant has paid a total sum of Rs.14.96 crores, all through bank transactions through Dipinder Singh Brar, after due verification from the petitioner, her daughter, who is residing in U.K., also find force as no man of common prudence would like to purchase property worth crores of rupees without the consent of the true owners despite the fact that GPA is given by the petitioner to her husband for which the complainant had no occasion to suspect the same as by paying Rs.18.60 lacs to the Sub-Registrar,

Sri Muktsar Sahib, the complainant has even got an endorsement on the GPA that it is valid and alive on the date of sale deed.

(g) The argument raised by counsel for the petitioner, regarding the opinion given by the CFSL that the signatures of the petitioner on certain documents do not tally, can be a double edged weapon as once the petitioner, in a calculated manner in conspiracy with her husband, has decided to cheat the complainant, there is every possibility that she while signing these documents has herself varied her signatures so that the same may not tally with her standard signatures and therefore, coupled with the other circumstances, this fact alone cannot be taken into consideration against complainant as the same is subject to leading of evidence, during the course of trial.

(h) The argument raised by counsel for the petitioner that no offence from the bare reading of the FIR is made out as the complainant is praying for possession of the house is totally misplaced as on the careful perusal of the entire FIR, it is apparent that the petitioner along with her husband/co-accused Dipinder Singh Brar, since the time of inception of deal with the complainant, were in conspiracy with each other to cheat the complainant after he had part away Rs.14.96 crores towards 50% of the share of the house by way of 02 sale

deeds and therefore, on the face of it, the offence of cheating and forgery are made out.

In view of what has been discussed hereinbefore, finding no force in the arguments raised by counsel for the petitioner, I find that it is a fit case where the custodial interrogation of the petitioner is required, accordingly, the present petition is ***dismissed***.

However, it is made clear that the observations made hereinabove, will have no bearing on merits of the case and rather the same are made, only for the purpose of deciding the bail application.

(ARVIND SINGH SANGWAN)
JUDGE

10.12.2021
yakub

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