

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

**CRM-M-51313-2021
Date of decision : 09.12.2021**

Tejinder Singh @ another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. S. Jawandha, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No. 98 dated 06.07.2021, registered under Sections 406, 420, 120-B of the IPC at Police Station Dakha, District Ludhiana (Rural).

At the very outset, it is worth noticing that anticipatory bail application, filed by one of the co-accused, namely Jagjit Kumar, bearing CRM-M-30211-2021 has been dismissed by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR registered at the instance of complainant-Paramjit Kaur against Bhagwant Singh (Ex-Sarpanch), Kuljit Singh (Ex-Panch), Baldev Singh (Numberdar), Tajinder Singh, Jagjit Singh (petitioner) and Nirbhai Singh, it is stated that all the accused persons, in conspiracy with each other have committed the offence of cheating and fraud and are further extending threats of dire consequences.

The complainant has stated that her real brother namely Joginder Singh has executed a power of attorney dated 24.05.2017 in favour of the complainant vide which she was authorized to look after the land in the village. The brother of the complainant is alive and the power of attorney is not cancelled. In January, 2020, the accused persons, approached the complainant with a common objective and took her to the office of Joint Sub-Registrar, Mullanpur for execution of an affidavit regarding a compromise with Kulwant Kaur w/o Joginder Singh i.e. Bhabhi (sister-inlaw) of the complainant. However, in conspiracy with each other, they took the signature of the complainant on some papers and also got their photographs clicked with her. The complainant later on came to know that all the accused, with intention to cheat her and in a pre-planned conspiracy, have got transferred the land of her brother Joginder Singh vide three sale deeds in their own favour and are trying to get the mutation entered in their own names in the revenue records. In this regard, she has given a complaint to the revenue officials. It is further stated that the sale consideration shown in the aforesaid three sale deeds was never paid to the complainant though it was shown to be Rs.25,85,000/-, Rs.5,00,000/- and Rs.25,85,000/- respectively. It is further stated that the aforesaid sale deeds got executed fraudulently and the accused persons are trying to usurp the property and take its forcible possession. Learned counsel for the petitioner has argued that some litigation is pending with regard to the property and therefore, the petitioner could not make the payment. Learned counsel for the petitioner has relied upon certain documents like the sale deeds, civil suit filed by the daughter of Joginder Singh namely Gagandeep Kaur challenging the aforesaid sale deeds to be outcome of fraud. Learned counsel for the petitioner further submits that on account of some order passed by the Court, he could not make the payment. On a Court query, whether the petitioner is ready to deposit the entire sale consideration in the Court subject to the final outcome of the civil litigation, the reply was in negative. Reply by way on an affidavit of the Deputy

Superintendent of Police, Dakha, District Ludhiana Rural is on record and as per the reply, during investigation, the Investigating Officer has found that at the time of execution of the alleged sale deed, cheques were given to the complainant, however, the same were never encashed. To verify this fact, the SHO has also got the statement of the bank officials recorded to the effect that no amount was transferred in the account of the complainant. It is also stated that prior to the registration of the FIR, an inquiry was conducted by the Superintendent of Police, Headquarter, Ludhiana Rural and vide inquiry report dated 04.03.2021, a recommendation for registration of an FIR was made and only thereafter, the present FIR was registered by following the proper procedure and finding that a prima facie offence is made out. Learned State counsel assisted by learned counsel for the complainant submits that some other FIRs of similar nature are also pending against the accused persons, details of which are attached with the reply. I have heard learned counsel for the parties. Admittedly an inquiry was conducted before registration of the FIR and finding that a cognizable offence is made out as per the inquiry, the present FIR was registered. The allegations against the petitioner and other accused persons are serious in nature that they took the complainant to the office of Joint Sub-Registrar, Mullanpur on the pretext of getting the affidavit attested regarding some compromise with her Bhabhi-Kulwant Kaur and the accused persons got three sale deeds executed by showing that three cheques having been given as sale consideration, which were neither given to the complainant nor ever encashed as per the statement of the bank officials and therefore, the complainant was cheated of a total sale consideration of Rs.40,00,000/-. On the face of it, the cheques were shown as sale consideration before the Joint Sub-Registrar to show that the same are the sale consideration and believing the same, the sale deeds were got executed fraudulently and therefore, I find that it is a case where custodial investigation is required. Accordingly, the present petition is dismissed.”

Learned counsel for the petitioners submits that in fact at one

point of time, after the death of Kulwant Kaur wife of Joginder Singh, who was sole owner of the property, the property was inherited by her granddaughter namely Gagandeep Kaur and Joginder Singh has challenged the said mutation before Collector-cum-Sub Divisional Magistrate, Ludhiana (West) and the same was allowed in his favour and the property was transferred and a new mutation was sanctioned as he was a Class-I legal heir of Kulwant Kaur, being his husband. It is further submitted that against the order of Collector-cum-Sub Divisional Magistrate, Ludhiana (West), Gagandeep Kaur filed an appeal before the Assistant Collector, Ludhiana in the year 2019 and the same is pending adjudication.

Learned counsel further submits that in the civil suit filed by Gagandeep Kaur against the petitioners seeking declaration that she is exclusive owner in possession of the suit property, the Civil Judge, on 02.03.2020, has passed an order that in case any alienation of the suit property is made by the defendants (Joginder Singh and Bhagwant Singh), the same will be hit by the doctrine of *lis-pendens*.

Learned State counsel submits that as per verification, it is found that the cheques, which were issued by the petitioners in lieu of the sale consideration, were not encashed or handed over to the complainant and the sale deed has been executed without any consideration, which demonstrates the intention of the accused persons to commit the offence of cheating, in which sale deeds were executed without any passing of sale consideration as it is verified during the inquiry from the bank concerned that no such amount was transferred on the basis of cheques bearing Nos. 075764, 067742, 067741, 067743, 067376, 067377, 067378.

Learned State counsel further submits that the petitioners are the beneficiaries as out of three sale deeds, one sale deed was executed in favour of petitioner No. 1 and two sale deeds were executed in favour of petitioner No. 2.

It is further submitted that since as per police inquiry, no money was transferred, it cannot be held to be a bona fide purchase by the accused persons.

After hearing learned counsel for the parties, considering the allegations against the petitioners, I find no ground to grant them the concession of anticipatory bail.

Dismissed.

09.12.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No