

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-M- 44129 of 2019 (O&M)
Date of decision : 15.7.2021

...

Nripendra Pal Singh

.....Petitioner

vs.

State of Punjab

.....Respondent

2. CRM-M- 53577 of 2019 (O&M)

...

Kanwaljit Singh Bhinder

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. J.S. Bedi, Senior Advocate with
Mr. Rubal Garg, Advocate for the petitioner
(In CRM-M-44129-2019).

Mr. R.S. Cheema, Senior Advocate with
Ms. Sumanjit Kaur, Advocate for the petitioner
(In CRM-M-53577-2019).

Mr. J.S. Ghuman, Deputy Advocate General,
Punjab.

Mr. Dheeraj Chawla, Advocate for the complainant.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

By this common order, I intend to dispose of two petitions
for grant of pre-arrest bail, under Section 438 Cr.P.C., bearing CRM-
M-44129-2019 filed by Nirpendra Pal Singh, aged 80 years, s/o

Mohinder Pal Singh, r/o Creg Top Estate Vinsat Hill, Mussorie (Uttarakhand) and CRM-M-53577-2019 filed by Kanwaljit Singh Bhinder, aged about 68 years, s/o Nishan Singh Bhinder, resident of H.No.138, Sector 28-A, Chandigarh, both of them being accused in FIR No. 117 dated 14.5.2019, for offences under Sections 406, 420, 120-B IPC , registered at Police Station Kotwali, Patiala.

Briefly stated, facts of the case, as per the prosecution version are that criminal machinery in this case was set into motion by the complainant Ashok Kumar s/o Om Parkash r/o House no. 104-E, Partap Nagar, Patiala and others, who in the written complaint submitted by them to the police stated that land mafia comprising Narpinderpal Singh and legal representatives of late Sh. Mahinder Pal Singh, resident of Craig Top Estate Mussorie, in collusion with Kanwaljit Singh Bhinder s/o Late Nishan Singh Bhinder r/o House No. 138, Sector 28-A, Chandigarh, played fraud with more than 70 purchasers of the total suit land measuring 156 kanals 5 Marla, situated at village Arian Majra, Tehsil and District Patiala, by making the sale of land for the second time. Earlier it had been sold to Surjit Singh and Ballabh Dass, residents of Ludhiana, in the form of General Power of Attorney with absolute powers of sale and they further collusively sold the land to Surinderpal Singh and Satish Kumar as General Power of Attorney and cheated them after the decree dated 30.3.1989 concealing their best title of purchasers (GPA, sale agreement and receipt). The decree dated 8.1.2009 was set aside. There Narinderpal Singh had not asked for possession in the

declaratory suit. Such relief was not granted to them, but they made an attempt for taking possession after 13 years of filing of declaratory suit was made but such prayer was declined by learned Additional District Judge, Patiala in the year 2004 and such action was not challenged further. Realising that they were having title only and not the possession, they filed an application for restitution under Section 144 CPC, by seeking possession from 70 purchasers, which was on the basis of false ground and documents. Surinderpal Singh etc. alongwith Harbans Lal etc. had filed two regular appeals in the High Court, against the order passed by the Appellate Court. In the meanwhile, Narinderpal Singh and Kanwaljit Singh Bhinder approached the purchasers and convinced them that Surinderpal Singh and Satish Kumar had agreed to withdraw their respective appeals and to surrender their possession without any consideration, except the court expenses. It was agreed that amicable settlement would be done with all the purchasers or whosoever is concerned with the land measuring 156 Kanals 5 Marla. Accordingly, Kanwaljit Singh Bhinder was appointed as General Power of Attorney and Narinder Pal Singh as Mediator. The appeals were withdrawn from the High Court. Loss was caused to the Public Exchequer, in as much as, sale deeds were executed showing the land to be meant for agricultural purposes, though it was of commercial nature, located within the Municipal limits. Thus, loss caused to Public Exchequer was to the tune of Rs. 1 crore. After registration of the FIR, investigation in the case started.

Apprehending their arrest in this case, petitioners had approached the Court of Sessions at Patiala, by filing application for grant of anticipatory bail. Their such applications which were assigned to Additional Sessions Judge, Patiala, were declined, as such they have approached this court, craving for grant of similar relief, which request is being opposed on behalf of the State counsel and complainant through counsel.

I have heard learned counsel for the petitioners, learned State counsel as well as learned counsel appearing for the complainant, besides going through the record.

Learned counsel appearing on behalf of the petitioners have contended that the petitioners have since joined the investigation in terms of the order passed by this Court, granting them interim bail; they have co-operated with the Investigating Agency and the petitioners are not required by the Investigating Agency, for further investigation and as per their instructions, on completion of investigation, the police has found this case to be of civil nature and a cancellation report in the matter has been prepared, which has though been approved by the higher police officers but is yet to be filed in the Court.

Learned State counsel, on instructions from SI Gurpal Singh, has conceded this fact.

It being so, as the Investigating Agency, on completion of investigation, has itself reached to a conclusion that the dispute between the parties is of civil nature; the petitiones having joined the

investigation and the Investigating Agency having prepared a cancellation report in the matter, though it is yet to be filed in the Court, the necessity of custodial interrogation of the petitioners does not come out to be there.

Therefore, under the circumstances, the interim bail granted to the petitioners vide orders dated 17.10.2019 (in CRM-M-44129-2019) and 16.12.2019 (in CRM-M-53577-2019) are made absolute, subject to fulfillment of following conditions:-

- i) that the petitioners shall appear in the Court on each and every date of hearing.
- ii) that the petitioners shall not give any threat or intimidation to the prosecution witnesses.
- iii) that the petitioners shall not leave India without the prior permission of the Court.
- iv) that the petitioners shall surrender their passports before the Investigating Officer and if they are not having passports then they shall file an affidavit in that regard.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

Both the petitions in that way are allowed.

15.7.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No