

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

CRM-M-4146-2022

Date of decision:19.07.2022

NEELAM ALIAS SEEMA GOURI

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. D.S. Saini, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Ajay Bansal, Advocate for
Mr. Rajesh Bansal, Advocate
for complainant.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.391 of 18.12.2021, registered at Police Station City Thanesar, District Kurukshetra, wherein offences constituted, under Sections 406, 420, 467, 468, 471, 120-B of IPC, are embodied.

2. This Court, through an order made, on 02.02.2022 had granted *ad-interim* bail to the present bail petitioner.

3. The husband of the present bail petitioner through an unregistered testamentary disposition executed by one, Neelam, became constituted her sole legatee, and, after the demise of the testatrix, the husband of the present bail petitioner inherited her estate. Consequently, he, in respect of the estate inherited by him, proceeded to execute registered deed(s) of conveyance vis-a-vis the vendees concerned. However, through a codicil appended with the unregistered testamentary dispossession executed by the previous wife of the husband of the

present bail petitioner, he executed registered deeds of conveyance vis-a-vis the vendees concerned. However, through a codicil appended with the unregistered testamentary disposition, the testatrix in respect of her estates mentioned therein, proceeded to modify the bequest, as, made through the unregistered testamentary disposition, inasmuch as, she proceeded to also constitute her children, as her legatees. The above was a tenable effort, but since it is also alleged that it also resulted in the prior thereto registered deeds of conveyance, becoming amenable to become annulled or set aside, thereupon the vendees concerned, can *prima-facie* allege theirs being put to lawful loss, and/or, the husband of the present bail petitioner making wrongful gains.

4. If so, the present bail petitioner may not have any incriminatory role along with her husband, but the prosecution alleges that, the signatures made by the testatrix, on the codicil are fabricated or forged or they are made thereons, by the present bail petitioner. But yet the above would carry some weight only if the children, who become constituted, as legatees, under the codicil, were born from the womb of the present bail petitioner, and/or, they were not born from the womb of the testatrix. However, since it is stated that the children who became constituted as the legatees in the codicil, were born from the wed-lock of the testatrix, and, the husband of the present bail petitioner, thereupon, *prima-facie* the maker of the codicil cannot, at this stage, be construed to be any other person than the maker of the Will, rather wherewith became appended with the codicil, and, which became drawn a day subsequent to the drawings of the unregistered testamentary dispossession.

5. The reason being that she could have chosen to ensure hers being constituted the legatee rather than her stepchildren, more so, when she was not married to the husband of the petitioner rather on the date of its drawing.

6. In any case the factum of authenticity of the codicil, would be, as submitted by the learned counsel for the petitioner, become rested through a verdict of the Civil Court concerned, in the Civil Suit concerned, wherein, the counsel submits, an issue qua therewith is struck, and, is awaiting the recordings of findings thereon.

7. Though, the husband of the present bail petitioner, in respect of the estate inherited by his minor children proceeded, and, without any leave being asked for the relevant purpose, from the jurisdictionally empowered Civil Court, rather proceeded to execute registered deeds of conveyance qua the vendees concerned, thereupon, though the executions thereof may become stained, and, tainted, but yet even in respect thereof, *prima-facie* no penal inculcation is drawable against the present bail petitioner, nor in respect of the above stated factum, qua rather through the codicil of the previous wife of the husband of the present bail petitioner, hence begetting the ill sequel of the rights, if any, acquired by the vendees concerned, through apposite registered deeds of conveyance executed in their favour, hence becoming scuttled. Therefore too, the present bail petitioner becomes not *prima-facie* amenable qua drawings of any penal inculcation.

8. Given the above, and, also when the prosecution, at this stage, has not adduced any evidence, suggestive that in the event of the bail petitioner being admitted to anticipatory bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence or influencing the prosecution witnesses.

9. In summa the order as made, by this Court, on 02.02.2022, is made absolute on the same terms and conditions, and, also subject to hers furnishing, if not already furnished, personal, and, surety bonds in the sum of Rs.50,000/-

each, to the satisfaction of the arresting officer, and, also subject to hers rendering co-operation to him, in the investigations to be carried into the offences mentioned in the present FIR. Moreover, also with an undertaking, that she shall not tamper with prosecution evidence, and, nor shall influence the prosecution witnesses.

10. Disposed of.

19.07.2022

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(SURESHWAR THAKUR)
JUDGE

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