

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

CRM-M-5403-2022 (O &M)  
Date of decision:02.03.2022

SUSHEEL KUMAR

.....Petitioner

Versus

STATE OF HARYANA AND ANR.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SANT PARKASH**

Argued by: Mr. Deepak Singh Saini, Advocate  
for the petitioner.

Mr. Amreek Singh Narwal, DAG, Haryana

Mr. Rajesh Bansal, Advocate  
for the complainant/respondent No. 2

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**SANT PARKASH, J.**

*(The case has been taken up for hearing through video conferencing.)*

**CRM-6673-2022**

For the reasons mentioned in the application, the same is allowed and complainant is impleaded as respondent No. 2 in the present petition. Memo of parties be amended accordingly.

**CRM-6686-2022**

For the reasons mentioned in the application, the same is allowed and the documents as annexed with the application are taken on record as Annexures R-2/1 to R-2/10 and the complainant/respondent No. 2 is exempted from filing certified/true typed copies of the same.

**CRM-M-5403-2022**

1. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in case, FIR No.391 dated 18.12.2021 registered under Sections 406, 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 at Police Station City Thanesar, District Kurukshetra.

2. Brief facts of the case are that first wife of the petitioner Neelam (since deceased) had bequeathed her entire moveable-immovable properties to her husband by virtue of Will dated 29.05.2008 and on the basis of the said Will dated 29.05.2008 the petitioner got transferred the entire property of Neelam in his favour and thereafter, he sold the said properties to different persons including the wife of the complainant. Shop No. 209/5, Mohan Nagar, Kurukshetra was sold to wife of the complainant namely Meenu Rani by virtue of sale deed dated 17.08.2010. The allegations against the petitioner are that he prepared an ante dated Will of his first wife Neelam and got removed the original Will dated 29.05.2008 from the record of Municipal Council, Thanesar and on the basis of the said forged Will he got filed a Civil Suit through his children Tejsavi and Arshdeep for declaration and possession with consequential relief of permanent injunction on dated 10.09.2010 challenging the sale deed qua suit property executed in favour of Meenu Rani (wife of complainant). As per the forged Will, the petitioner, his son Arshdeep and his daughter Tejaswi are the owners of entire estate of deceased Neelam. When the complainant came to know that Will presented in the Court by the petitioner and his children has been prepared in connivance with each other and is

forged and different from the original Will then the complainant went to the office of HSVP Faridabad and on enquiry he found that the petitioner had given copy of original Will dated 29.05.2008. The entire record is present in the Office of HSVP and according to Will dated 29.05.2008, the petitioner is the sole owner of the entire movable and immovable properties and no rights have been conferred upon the children Arshdeep and daughter Tejaswi.

3. The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Subhash Chander, HPS, Deputy Superintendent of Police, HQ, Kurukshetra on behalf of respondent/State.

4. The petition has also been opposed by learned Counsel for the complainant.

5. I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the record.

6. Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case by converting a civil dispute into a criminal case by the complainant. The petitioner executed sale deed qua the suit property (shop No. 209/5) in favour of Meenu Rani (wife of the complainant) in the year 2010. The complainant has got lodged the present FIR after more than eleven years just to harass the petitioner. A Civil Suit filed by next friend-maternal uncle of Tejaswi and Arshdeep (Children of the petitioner) challenging the said sale deed executed in favour of Meenu Rani (wife of the complainant) is pending before the Court of learned Civil Judge (Junior Division) Kurukshetra and

the case is pending for remaining secondary evidence of complainant/defendant. The complainant also got moved a similar complaint earlier in the year 2016 against the petitioner before the Economic Offences Wing and after investigation, it was found by the investigating agency that the matter is of civil nature and is already pending before the trial Court and the complaint was filed. The entire case is based on documentary evidence and the custodial interrogation of the petitioner is not required. Co-accused Neelam @ Seema Gauri (wife of the petitioner) has already been granted anticipatory bail from this Court vide order dated 02.02.2022 in the present FIR. The petitioner is ready and willing to join the investigation.

7. Opposing the contentions, learned State Counsel in view of reply has vehemently argued that custodial interrogation of the petitioner was required for thorough and fair investigation. That apart from the present case, the petitioner is involved in four other cases out of which in three cases offences are of similar nature as in the present FIR. The petitioner is a habitual offender. Therefore, the present petition for grant of anticipatory bail may be dismissed.

8. Learned Counsel for the complainant in terms of the reply filed has submitted that the name of earlier wife of the petitioner was Neelam and she expired on 09.09.2008 and thereafter petitioner solemnized marriage with Seema Gouri daughter of Sh. Naresh Chander Gouri and changed her name as Neelam and the same has been done with an intention to commit cheating with innocent persons. After the death of his first wife Neelam, the petitioner transferred the entire property of Neelam in his favour by virtue

of Will dated 29.05.2008. The property in question i.e. Shop No. 209/5 was transferred in favour of Seema Gouri (present wife of the petitioner) by virtue of sale deed dated 13.01.2010 and thereafter the said property was sold to the wife of complainant Meenu Rani by virtue of sale deed dated 17.08.2010. The petitioner fraudulently got prepared a ante-dated Will and got removed the original Will dated 29.05.2008 from the record of Municipal Council, Thanesar and on the basis of the said forged Will, the petitioner got transferred the plot situated at Faridabad in his favour and got recorded another Will in Municipal Council, Thanesar to cheat the purchasers. The petitioner on the basis of the said ante-dated Will dated 29.05.2008 got filed a Civil Suit for permanent injunction of shop No. 209/5 (property in dispute) through his children. As per the said forged Will, the petitioner, his son Arshdeep and his daughter Tejaswi are the owners of entire estate of deceased Neelam. However, according to the original Will dated 29.05.2008 presented in the office of HSVP, the petitioner is the sole owner of the entire moveable and immovable properties of deceased Neelam. The petitioner in connivance with other co-accused has prepared ante-dated Will with an intention to commit cheating with the complainant. The petitioner is habitual of committing cheating and forgery with innocent persons. Even the learned Additional Sessions Judge, Kurukshetra while deciding the anticipatory bail application of the petitioner has held that the residential particulars given by the petitioner and his wife are false and incorrect. Therefore, the present petition for grant of anticipatory bail may be dismissed.

9. In the present case, the allegations against the petitioner are that

firstly he got executed sale deed for shop No. 209/5 in favour of wife of the complainant and thereafter the petitioner with an intention to commit cheating with the complainant got prepared a forged ante dated Will of his first wife deceased Neelam in connivance with other co-accused and got filed a civil suit through his children on the basis of the said Will challenging the sale deed executed in favour of wife of the complainant. The children of the petitioner Tejaswi and Arshdeep qua the said civil suit are seeking share in the said property in question which was already sold to the wife of the complainant by the petitioner in the year 2010.

10. Learned Counsel for the petitioner has tried to make out the case submitting that the possession of the property in question is already with the complainant since the year 2010 and the complainant has rented out the said property. The matter between the parties is already pending before the Civil Court and that to is in the final stage.

11. Admittedly and evidently, by virtue of Will dated 29.05.2008, the petitioner became the sole owner of the entire properties left by her deceased wife namely Neelam. On the basis of the said Will, the petitioner sold shop No. 209/5 situated at Mohan Nagar, Kurukshetra to the wife of the complainant vide sale deed dated 17.08.2010. The possession of the said property is with the complainant who has rented out the same. It is also not disputed that another Will of the same date i.e. 29.05.2008 came into picture and in that Will, apart from the present petitioner, two minor children of the deceased wife along with the petitioner have been bestowed upon the properties which were given to the petitioner on the basis of the Will of the same date.

12. It has further emerged from the record that the children of the petitioner challenged the alienation made by the petitioner in favour of the wife of the complainant and for that civil suit is pending since 2013 and the same is now fixed for the evidence of the complainant/defendant. One application regarding the alleged fraud was given by the complainant in the year 2016 and no action was initiated thereupon as the police authorities conceded it to be a matter of civil nature and also civil case in the matter was already pending. The said civil case is still pending at the time of deciding this present bail application.

13. It has been further stated that co-accused Neelam @ Seema Gauri (wife of the petitioner) has already been granted anticipatory bail by this Court vide order dated 02.02.2022.

14. The main allegation of the complainant is that the petitioner in connivance with the other accused, has forged the Will whereas the claim of the petitioner is that there is only one Will and only the names of his children have been added therein.

15. Taking into consideration, the totality of the circumstances, this Court is of the considered opinion that the present petitioner deserved to be enlarged on anticipatory bail. The questions of genuineness of the Will and whether there was one Will or there are two Wills is already sub-judice and as stated by the parties it is at the final stage. The final decision of the Civil Court is yet to come in this regard what certainly will make it clear as to which of the Will is genuine or forged one.

16. The entire case of the prosecution is based upon the documentary evidence and no custodial interrogation of the petitioner is

required at all.

17. In view of the above, the present petition is disposed of with a direction to the petitioner to join the investigation and the petitioner shall remain present as and when called for and in the event of arrest, the petitioner shall be admitted to bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer subject to the adherence of the conditions as specified under Section 438(2) Cr.P.C.

02.03.2022  
kavneet singh

(SANT PARKASH)  
JUDGE

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