

101

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

CRM-M-7338-2022

Date of decision : 23.02.2022

Pushpinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikas Bali, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Anurag Arora, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.113 dated 23.09.2021 registered under Sections 419, 465, 467, 468, 471, 473, 120-B of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Bhargo Camp, District Jalandhar.

FIR, in the present case, has been registered on the complaint of Gurmohan Singh, who has levelled allegations against three persons i.e. the petitioner, Sunita and Inderjeet Singh with respect to forgery and fabrication of certain documents. It had been alleged that the said complainant-Gurmohan Singh got registered GPA bearing No.2355 dated

25.08.2020 in his favour from Raj Joginder Kaur wife of Palminder Singh, Pawanjit Singh Johal and Gurinder Singh Johal (sons of Palminder Singh), who were all stated to be residents of England. It had been further alleged that in the revenue record, there is a mutation entry which has been entered in the name of Raj Joginder Kaur, Pawanjit Singh Johal and Gurinder Singh Johal with respect to the property No.9/2/776 (W.G-351) measuring 09 marlas and 27 square feet situated in Mohalla Suraj Ganj, Nakodar Road, Jalandhar. It had been alleged that earlier, they had committed theft of documents and other items from the property regarding which, FIR No.142 dated 24.11.2020 was registered under Sections 148/380/34 of the IPC against Sunita and Inderjeet Singh @ Boney and while applying for the concession of anticipatory bail in the said case, a copy of Birth Certificate, Aadhaar Card, Passport + Voter's Identity Card, including that of the petitioner, were produced. It had been alleged that the said documents were forged and fabricated and that the present petitioner is not the daughter of Palminder Singh and is the daughter of Sunita and one Gurmeet Singh, who is resident of Tarn Taran.

In the order rejecting the bail application of the petitioner, it had further been found that as per the police record, the stamp and signatures of Municipal Councillor Tarsem Singh, have been forged and fabricated in order to prepare the documents for the purpose of issuing the false Birth Certificate in which, the name of father of the petitioner has been stated to be Palminder Singh whereas, as per the case of the

petitioner, she is, at best, the adopted daughter of Palminder Singh.

Learned counsel for the petitioner has submitted that in the present case, the signatures and stamp of the said Tarsem Singh Councillor have not been compared with any document. It is further submitted that apart from Tarsem Singh, there is one other Councilor namely Kasturi Lal, who has also put his stamp and signed on the document dated 26.11.2013 and there is no comparison of his signatures nor the stamp affixed by the said Kasturi Lal has been verified, although, it is stated that the said Kasturi Lal is now deceased. It is argued that no investigation has been done with respect to the documents, which were part of the application, and had been given for getting the late entry in the Birth Certificate. It is further argued that in the Birth Certificate, stamp of the Registrar is affixed, which is the issuing authority of the same. It is contended that there is civil litigation pending between the Punjab Wakf Board and one Preet Kaur with respect to the property in question, in which, the mother of petitioner namely Sunita had moved an application under Order 1 Rule 10 CPC, which was although dismissed but, the Punjab Wakf Board had subsequently filed a contempt petition against the mother of the petitioner, which is still pending. It is further contended that FIR No.142 dated 24.11.2020 was registered under Sections 448, 380, 34 of the IPC against the mother and brother of the petitioner and they had applied for the grant of concession of anticipatory bail and vide order dated 06.01.2021 (Annexure P-15), they were granted the relief of interim bail which was subsequently affirmed vide order dated

17.02.2021. It is also argued that after the mother and brother of the petitioner were granted anticipatory bail, the present FIR has been registered so as to implicate the entire family including the present petitioner, who is a married lady. He has placed reliance upon the judgment of Hon'ble the Supreme Court in **Md. Ibrahim and others Vs. State of Bihar and another**, reported as **2009(8) SCC 751** to contend that in the present case, there is no content of forgery even in case the allegations of preparing the false documents are taken on its face value.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and Mr. Anurag Arora, Advocate appears on behalf of the complainant and have submitted that they are fully prepared to argue the matter and assist this Court. They have opposed the present petition for grant of anticipatory bail to the petitioner and have submitted that in the present case, the petitioner alongwith her family members, has committed mischievous acts, one after the other so as to forge and fabricate the documents in order to show that the petitioner is the natural daughter of Palminder Singh. Reference has been made to the Birth Certificate, copy of which has been given by the learned counsel for the petitioner and the same is taken on record and marked as Mark "A" and it has been argued that the said Birth Certificate shows that the name of father has been stated to be Palminder Singh whereas, as per the own case of the petitioner, it is so mentioned in para 22 of the present petition (page 12) as well as at page 93 of the impugned

order that the petitioner was the adopted daughter of said Palminder Singh. It is submitted that the said document i.e., the Birth Certificate is, on the face of it, a false and fabricated document as it records a fact which is contrary to the version of the petitioner. It is further submitted that the said Birth Certificate has been procured on the basis of letter No.1921/RRC dated 17.01.2014 which is stated to be issued by the Office of Sub Divisional Magistrate and after enquiry, it has been found that the office of SDM, Jalandhar had never issued the said letter. The letter dated 17.01.2014 as well as report dated 26.04.2021 are taken on record and marked as Mark "B" and Mark "C", respectively. It is further argued that some other documents were also submitted before the authorities in order to get the said Birth Certificate issued and the said documents were stated to have borne the signature and stamp of one Tarsem Singh, Councilor. It is stated that the statement of the said Tarsem Singh has been recorded on 21.01.2022 under Section 161 of Cr.P.C., copy of which has been taken on record and marked as Mark "D", as per which, the said Tarsem Singh had specifically stated that the stamp and signatures on the said documents are not his and the same have been forged and fabricated and thus, the offence under Section 473 of IPC is made out.

Learned counsel for the complainant has also highlighted the fact that there is a self-declaration letter, which has been given by Sunita, mother of the petitioner, before *Suvidha Kendra* in order to get the Birth Certificate issued. Relevant portion of the true translation of the same is reproduced hereinbelow:-

“SELF DECLARATION LETTER

I Sunita wife of Palminder Singh son of Karnail Singh aged 40 years resident of 59/2, Avtar Nagar, District Jalandhar, Punjab do hereby solemnly declare as under:-

1. That a live male/female had taken birth from my womb on 18.10.1993 at 59/2, Avtar Nagar, Jalandhar, whose name has been kept Pushpinder Kaur.

Xxx xxx

5. That we are the natural parents of this child and this child has not been adopted.

6. That now I want to get entered the late birth registration of my daughter, this certificate is required for me for domestic use.

Xxx xxx”

It has been argued that a perusal of the above would show that Sunita had alleged herself to be the wife of Palminder Singh and had alleged Pushpinder Kaur to be the natural child of the said Sunita and Palminder Singh and that she has not been adopted. It is submitted that it is apparent from the said document that the petitioner, in order to usurp the property of the original owner, forged and fabricated documents. It is submitted that Palminder Singh in fact, got married to Raj Joginder Kaur on 23.07.1988 and the same was a registered marriage in U.K. and there are two children from the said wedlock i.e. Pawanjit Singh Johal and Gurinder Singh Johal, who are all residing in England and even the property in question was mutated in their favour. It is further submitted that Raj Joginder Kaur is still alive thus, question of Sunita being legally wedded wife of late Palminder Singh does not arise. It is submitted by the

learned State Counsel that the present case is still at the stage of investigation and thus, the custodial interrogation of the petitioner is required in order to find out who all are involved in the commission of offence of forgery and in preparing false documents.

This Court has heard the learned counsel for the parties and has perused the paper book.

A perusal of the averments made in para 22 of the petition (page 12) as well as the arguments raised by the petitioner as noticed at page 93 in the impugned order would show that it is the case of the petitioner that she is the adopted daughter of Palminder Singh. Neither any document with respect to the said adoption has been produced nor any date of said adoption is forthcoming from the petitioner. Be that as it may, the Birth Certificate which has been produced on record by the counsel for the petitioner and has been taken on record as Mark "A" would show that the father's name in the said Birth Certificate is stated to be Palminder Singh. It has been argued by the learned counsel for the petitioner that the said documents were prepared on 12.02.2014 and the same was on account of the late application filed for preparation of the Birth Certificate.

This Court is of the opinion that the Birth Certificate issued has to reflect the position which existed at the time of birth even in case it is subsequently prepared/issued. The fact that in the Birth Certificate, the name of biological father has not been mentioned, prima facie shows that the said Certificate is a false and fabricated document. The said document

as per the allegations of the prosecution alongwith other documents, have been prepared in order to make out a case that the present petitioner is the natural daughter of Palminder Singh and is entitled to his property. Letter No.1921/R dated 17.01.2014 (taken on record as Mark "B") is stated to be a letter which was submitted by the petitioner and her family member for the purpose of issuance of the said Birth Certificate. The said letter is stated to be issued by the office of Sub Divisional Magistrate. The true translation of the said document/letter is reproduced hereinbelow:-

"SUB DIVISIONAL MAGISTRATE, JALANDHAR-1

Endorsement No.1921/R/R.C. Dated 17.01.14

In original it is being sent to District Registrar, Birth and Death, Jalandhar it is written that investigation of the case was get conducted from Tehsildar, Jalandhar-1. As per Report No.2261/M.C dated 26.11.13, according to the recommendation of the Tehsildar Jalandhar-1 Girl PUSHPINDER KAUR D/O PALMINDER Singh S/o Sh. KARNAIL Singh R/O J9/2 Avtar Nagar, Jalandhar Date of birth 18.10.1993 from the womb of mother SUNITA at Village/City 59/2 Avtar Nagar Jalandhar District Jalandhar has been verified. This being sent under section 13(3) of the Birth and Death Act 1969 for further action.

Sd/-

Sub Divisional Magistrate

Jalandhar"

A perusal of the above letter would show that the same is based upon the recommendation of the Tehsildar, Jalandhar i.e. report No.2261 dated 26.11.2013. On investigation, it was found that there is no such letter/recommendation dated 26.11.2013 of the Tehsildar on

the record and the same is apparent from letter dated 27.04.2021 written by the Tehsildar in response to the letter dated 26.04.2021 written by Assistant Commissioner to the Tehsildar. The true translation of the relevant portion of the said letters (taken on record as Mark "C"), is reproduced hereinbelow:-

"From

Assistant Commissioner of Police

Detective, Jalandhar

To

The Tehsildar-1

Jalandhar

Number 2031 Date 26.04.2021

You are hereby written vide this letter that inquiry of the application Number 3633 D.C.P. dated 09.11.2020 is being conducted by me. Applicant Gurmohan Singh has stated that Opposite Party of the applicant Sunita Bains D/o Ramji Dass Bains R/o House Number 59/2 Avtar Nagar, Jalandhar has prepared forged date of birth certificate of her daughter. It is being written to you by sending the photocopy of the letter issued by this Office Number 2261/M.E. Reader Dated 26.11.2013 that to affix duty of the employee posted under you to provide the record related to the letter Number 2261/M.E. Reader Dated 26.11.2013 issued by your good office to the bearer of this letter so that after conducting inquiry of the application report may be sent for the Peshi of senior officers. It is most urgent.

Sd/-

Assistant Commissioner of Police

OFFICE OF TEHSILDAR JALANDHAR-1

Number: 597/MC-Date 27.04.2021

In original it is being sent back to the Assistant Commissioner of Police Detective it is written that the letter mentioned above Number 2261/M.E. Reader Dated 26.11.2013 has not been found after searching in the despatch register of this office.

Sd/-”

A perusal of the above would show that in fact, the petitioner and her family members have manipulated several documents in order to procure the said Birth Certificate. It is not in dispute that certain other documents, which were submitted for the purpose of issuance of the said Birth Certificate, were stated to be signed and stamped by Tarsem Singh, Councilor and although, the investigation is at the initial stage, the statement of Tarsem Singh has been recorded on 21.01.2022 under Section 161 of Cr.P.C. The true translation of the relevant portion of the same is reproduced hereinbelow:-

“PS BHARGO CAMP

COMMISSIONERATE JALANDHAR

Case FIR No 113 dated 25-9-2021 under section 419, 465, 468, 471, 120-B IPC PS Bhargo Camp, Commissionerate Jalandhar.

Statement of Tarsem Singh Lakorta Councilor Ward No 34, Jalandhar, under section 161 Cr.P.C. Mobile No 92561-49771

It is stated that I am the present councilor of Ward No.34 and I know personally to every person of my mohalla. The letter No.2827 dated 07-02-2014 and SDM Jalandhar order No.1921 dated 17-01-2014 which is regarding making late entry of the birth of Pushpinder

Kaur, documents I have seen, the signatures and seal regarding the attestation of these documents are not of mine. By got procuring these forged and fabricated signatures and seal by Sunita and her daughter Pushpinder Kaur got prepared the birth certificate and used the same for got issuing passport and procuring other documents and Sunita has shown the name of Palminder Singh as her husband and Pushpinder Kaur daughter of Palminder Singh, these signatures and seal are fake and forged. I never signed on these papers. In this regard I have already given an affidavit on dated 20-04-2021 regarding the complaint bearing No.3633-DCP/2021. The statement has been got recorded and heard, which is correct. I will also depose the above said statement in the court at the time of evidence.

*Sd/- English
Economic Offences Wing
Commissionerate Jalandhar
21-01-2022”*

In addition to the above, in the affidavit which is in the form of self-declaration letter of Sunita, which has been taken on record and the true translation of which has been reproduced hereinabove, it has been mentioned that Sunita and Palminder Singh are the natural parents of the present petitioner and that the child i.e. the petitioner, has not been adopted which is contrary to the stand taken in the present petition which is that the petitioner is the adopted daughter of Palminder Singh, would make out a prima facie case against the petitioner.

FIR has been registered under Section 473 of the IPC apart from other Sections. Section 473 of the IPC is reproduced hereinbelow:-

“Section 473 of the Indian Penal Code

473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

A perusal of the same shows that the person who makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

As per the statement of Tarsem Singh, his seal and his signatures on documents including document dated 07.02.2014 which has been submitted by the petitioner and her family members for issuance of Birth Certificate, are not his and thus, as per the prosecution case, the seal of Tarsem Singh has been counterfeited and his signatures have been forged, thus, making out an offence under Section 473 of the IPC apart from other offences. Thus, apart from other aspects, the custodial

interrogation of the petitioner is also required in order to recover the said seal and also to find out as to who are the persons who are involved in the commission of the offences, by virtue of which, the petitioner alongwith her family members, managed to procure the said Birth Certificate and other documents by submitting forged documents which are neither a part of the record of the Tehsildar nor have been stated to be signed/stamped by the concerned authority. The case of the complainant is that the said Palminder Singh was married to Raj Joginder Kaur on 23.07.1988 and the same was a registered married. It is further his case that the said Raj Joginder Kaur had two children namely Pawanjit Singh Johal and Gurinder Singh Johal with said Palminder Singh. It is also stated that the said Raj Joginder Kaur is still alive and thus, the said Sunita could not have said to be the legally wedded wife of Palminder Singh and the said aspect is also to be investigated by the police.

The argument of the learned counsel for the petitioner to the effect that earlier FIR No.142 dated 24.11.2020 was registered under Sections 148, 380, 34 of the IPC against the mother and brother of the petitioner and they have been granted the concession of anticipatory bail by a Coordinate Bench of this Court and the present FIR has been subsequently registered on the same allegations, does not cut much ice. A perusal of the FIR No.142 dated 24.11.2020 (Annexure P-14) would show that the allegations levelled in the same were with respect to trespass and theft of documents from the property No.9/2/776 and there were no allegations with respect to forgery of any document. The said

incident is stated to have taken place on 22.11.2020 and the FIR was registered on 24.11.2020. The registration of the present FIR is on a subsequent cause of action, for completely different offences i.e. the offence of forgery and cheating and the present FIR is based upon the allegations that the documents i.e. Aadhaar Card, Birth Certificate and Passport of the petitioner have been forged and fabricated by the petitioner in collusion with the other co-accused persons with an intention to grab the property of Palminder Singh, who is an NRI. Thus, registration of the second FIR is legal and in accordance with law.

The argument of the learned counsel for the petitioner to the effect that the petitioner has not used the said documents for any fraudulent purpose also deserves to be rejected inasmuch as, apart from the facts which would surface after due investigation, it is also apparent from a perusal of the FIR, as per which, it has been specifically alleged that the said documents were produced before the Sessions Judge at the time of applying for grant of anticipatory bail in FIR No.142 dated 24.11.2020, which facts have not been rebutted by the learned counsel for the petitioner and it is only thereafter that the complainant got knowledge of preparation of said documents. Reliance placed by the learned counsel for the petitioner upon the Civil litigation pending between the Punjab Wakf Board and Preet Kaur in which, the mother of the petitioner had moved an application under Order 1 Rule 10 CPC and also on the fact that Punjab Wakf Board had subsequently filed contempt petition against the mother of the petitioner, which is stated to be pending by the learned

counsel for the petitioner, is irrelevant inasmuch as, neither Raj Joginder Kaur nor her children nor the present complainant are party to the said litigation. In any case, the commission of offence of forgery of documents, which is subject matter in the present FIR, has nothing to do with the said litigation.

The judgment relied upon by the learned counsel for the petitioner of the Hon'ble Supreme Court in ***Md. Ibrahim's case*** (Supra), does not even remotely further the case of the petitioner. The relevant portion of the said judgment has been reproduced hereinbelow:-

“9. The term "forgery" used in these two sections is defined in section 463. Whoever makes any false documents with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into express or implied contract, or with intent to commit fraud or that the fraud may be committed, commits forgery. [Section 464](#) defining "making a false document" is extracted below :

"464. Making a false document.--A person is said to make a false document or false electronic record---

First.--Who dishonestly or fraudulently -

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or a part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.--Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alternation; or

Thirdly.--Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

Explanation 1 - A man's signature of his own name may amount to forgery.

Explanation 2 - The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

[Note: The words 'digital signature' wherever it occurs were substituted by the words 'electronic signature' by [Amendment Act 10 of 2009](#)]."

The condition precedent for an offence under [sections 467](#) and [471](#) is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sale deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.

10. An analysis of [section 464](#) of Penal Code shows that it divides false documents into three categories:

10.1) The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.

10.2) The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

10.3) The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him,

know the contents of the document or the nature of the alteration.

11. In short, a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his senses."

A perusal of the above judgement would show that "false document" has been divided into three categories. The first category is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person or by the authority of some other person by whom or by whose authority, he knows it was not made or executed.

In the present case, it is the allegation against the present petitioner that documents which purportedly bear the seal and signature of Tarsem Singh, Municipal Councillor, do not actually bear the seal and signature of the said Tarsem Singh. Even the statement of Tarsem Singh under Section 161 has been recorded to the said effect. The said document bearing the counterfeit seal and the forged signature of Tarsem Singh have been used by the petitioner and her family members for getting a birth certificate and other documents prepared in her favour in which, it has been falsely stated that the petitioner is the (natural) daughter of Palminder Singh, which is even contrary to version of the petitioner in the present petition to the effect that the petitioner is the

adopted daughter of Palminder Singh. Moreover, the Tehsildar recommendation dated 26.11.2013, which has been got prepared by the Petitioner and her family members, was also not found to be a part of the record of the Tehsildar, which also prima facie, shows that the said recommendation has been forged and fabricated. Thus, keeping in view the allegation against the petitioner, the case of the petitioner would fall under Paragraph 10.1 of the above-said judgment.

Keeping in view the abovesaid facts and circumstances, the present petition for grant of anticipatory bail to the petitioner is dismissed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

23.02.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**