

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

CRM-M-7907-2022 (O&M)
Date of decision: - 04.05.2022

Parmod Kumar @ Parbodh Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Deepak Arora, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Onkar Singh Batalvi, Advocate,
for the complainant.

VIKAS BAHL, J. (ORAL)

CRM-14764-2022

Present application has been filed for placing on record copy
of order dated 08.04.2022 as Annexure A-1.

Application is allowed, as prayed for. Copy of order dated
08.04.2022 (Annexure A-1) is taken on record, subject to all just
exceptions.

CRM-M-7907-2022

This is a first bail application under Section 438 Cr.P.C. for
grant of anticipatory bail to the petitioner in FIR No.12 dated 24.01.2022,

registered under Sections 420, 465, 466, 467, 468, 471 and 120-B IPC, at Police Station Sujanpur, Tehsil & District Pathankot.

The FIR in the present case was registered on the complaint of Shweta Mahajan, wife of Suresh Mahajan, by stating that Suresh Mahajan, son of Satpal Mahajan, had filed a petition i.e. CRM-M-38976-2021 before the High Court and vide order dated 21.09.2021, the said petition was disposed of with a direction to the Inspector General of Police, Border Range, Amritsar, to look into and decide the representation dated 31.08.2021 in accordance with law. In pursuance of the said order and after taking into consideration the allegations made therein, present FIR No.12 dated 24.01.2022 was registered on the allegations that Shweta Mahajan was the owner of Khasra No.2245(27-6) i.e. 17.5 marlas, situated in village Mamoon, District Pathankot and it was further alleged that a sale deed had been executed in the name of said Shweta Mahajan in favour of one Neelam Kumari and that Shweta Mahajan had never appeared before the Sub-registrar and in fact, she was impersonated by Renu Sharma, wife of Manoj Kumar. It was further the case of the prosecution that the said sale deed was attested by co-accused Rajinder Kumar Lambardar as well as Amarjit Singh Lambardar and that one employee of the Tehsil Complex, Pathankot, namely, Parmod Kumar (present petitioner), Computer Operator in the Registration Branch, had misappropriated the online record pertaining to the registration of the sale deed and had subsequently affixed the photograph of complainant Shweta Mahajan on the sale deed, who was actually not present at the time of registration of the sale deed.

It would be relevant to note that one more i.e., FIR No.206 was also registered, in which, complainant was Suresh Mahajan son of Satpal Mahajan, who had levelled similar allegations of forgery with respect to land measuring 1 kanal and 12.37 marlas, in which, the said Suresh Mahajan, who was owner of the said property, had been impersonated by co-accused Raman Kumar and the property was sold to co-accused Manoj Kumar. Even in the said case, there were similar allegations against Parmod Kumar (present petitioner), as have been levelled in the present case, to the effect that he had blurred the photographs in the hard copy of the endorsement of the sale deeds as the said photograph was of the impersonator and had subsequently, in order to hide the said forgery, replaced the said photograph of the impersonator with that of the original owner, who was never present at the time of the registration of the sale deed.

When the present case came up for preliminary hearing on 24.02.2022, this Court was pleased to pass the following order: -

"Learned counsel for the petitioner inter alia contends that in the present case, earlier FIR No.206 dated 05.10.2021 was registered by the husband of the complainant and in the said FIR also, the allegations were levelled with respect to the impersonation by a man and woman (i.e. Manoj Kumar and Renu Sharma) as the present complainant and her husband, so as to get sale deeds fraudulently executed in favour of third persons. Manoj Kumar was stated to be the main accused who had committed the said forgery and had made his wife Renu Sharma impersonate the complainant therein. Reference has also been made to page Nos.66 and 67 of the paper book where allegations have been levelled against the present petitioner in the said FIR also and the present petitioner has been stated to be the Computer Operator in the Registration Branch, Tehsil Office Pathankot therein.

It is further submitted that in the said FIR No.206 dated 05.10.2021, the Coordinate Bench of this Court had dismissed the anticipatory bail application of the present petitioner alongwith other accused persons vide order dated 06.12.2021 (Annexure P-3) passed in CRM-M-45996-2021 and other connected matters and in para 2 of the same, the factum of impersonation was noticed and in para 12 of the said order, it was also noticed that the present petitioner was the person who had clicked group photographs from the Camera attached to Computer and that without his connivance, the photographs on the hard copy of endorsement of sale deeds could not have been blurred. It is argued that against the said order, the petitioner went to the Hon'ble Supreme Court and the Hon'ble Supreme Court vide order dated 24.01.2022 (Annexure P-4) passed in SLP(Crl.) No.344/2022, was pleased to issue notice of motion and had also granted interim protection to the petitioner against his arrest. The said SLP is stated to be pending. It is further argued by the learned counsel for the petitioner that although property in question in FIR No.206 is different from the property in question in the present FIR, but the same are in the same area and the complainant in both the cases are husband and wife i.e. Suresh Mahajan and Shweta Mahajan and the allegations against the present petitioner are same in both the FIRs and since the Hon'ble Supreme Court has granted interim protection to the petitioner in FIR No.206, thus, he deserves to be granted the benefit of anticipatory bail in the present FIR.

Notice of motion.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions. Mr. Onkar Singh Batalvi, Advocate appears on behalf of the complainant and has submitted that he would like to place on record some documents in order to show that the petitioner is not entitled to anticipatory bail.

Adjourned to 30.03.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section

*438(2) Cr.P.C.**(VIKAS BAHL)**24.02.2022**JUDGE"*

Perusal of the order would show that counsel for the petitioner had made reference to the earlier FIR No.206 dated 05.10.2021 and had submitted that the allegations made in the said FIR No.206 dated 05.10.2021 were similar to the allegations levelled against the present petitioner in the present FIR also. Reference was also made to an order passed by a Co-ordinate Bench of this Court dated 06.12.2021, vide which the anticipatory bail application of the present petitioner filed in FIR No.206, had been rejected after observing that the present petitioner was the Computer Operator in the Registration Branch, Tehsil Office, Pathankot therein and it was he, who had clicked group photographs from the camera attached to the computer and without his connivance, the photographs on the sale deeds could not have been blurred. Learned counsel for the petitioner has submitted that against the said order passed by a Co-ordinate Bench of this Court, an SLP had been filed before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to grant interim protection vide order dated 24.01.2022, and thus, on the said basis it had been prayed that even in the present case the petitioner deserves the concession of anticipatory bail and it was primarily on the basis of above-said argument that the interim order dated 24.02.2022 was passed in favour of the petitioner.

That it has been brought to the notice of this Court that the Hon'ble Supreme Court of India, after considering the entire material, dismissed the said anticipatory bail application filed by the petitioner by

passing a detailed order dated 08.04.2022 and the interim order passed in favour of the present petitioner was withdrawn and he was directed to surrender within a period of two weeks from the date of the said order. In response to a pointed query raised by this Court, as to whether the petitioner has surrendered or not, the learned counsel for the petitioner has stated that the present petitioner has not surrendered till date. The relevant portion of the said order dated 08.04.2022 is reproduced herein below: -

"2. *The Special Leave Petition (Crl.) No.2702/2022 is filed by the petitioner – Danial Masih @ Daniel Masih seeking grant of anticipatory bail in FIR No.206/2021 dated 5-10-2021 for the offences punishable under Sections 417, 419, 420, 465, 466, 467, 468, 471 and 120-B of Indian Penal code.*

3. *The brief facts of the case are that CRM-M-29249-2021 was filed in the High Court raising a grievance that no action was being taken on the complaint made by Mr. Suresh Mahajan and Ms. Shweta Mahajan. The said petition was disposed of by the High Court with a direction to the Inspector General of Police, Border Range, Amritsar to decide the representations dated 23-9-2020, 20-1-2021 and 28-4-2021 by passing a speaking Order. Thereafter, F.I.R. No. 206/2021 was registered against Mr.Danial Masih @ Daniel Masish – Accused No.8.*

4. *The allegations are that on 4th February, 2016, a parcel of land measuring 1 Kanal and 12.37 Marlas situated at Mamoon Cantonment, Tehsil Pathankot, belonging to Mr. Suresh Mahajan was sold to Manoj Kumar and the Raman Kumar had impersonated as Suresh Mahajan. On the same day, land measuring 1 Kanal and 6 Marlas owned by Ms. Shweta Mahajan was sold to Neetu Bala where Renu Sharma wife of Manoj Kumar had impersonated as Shweta Mahajan. On coming to know of the mischief, the complainant applied for copies of the sale deeds. On 17th October, 2017, Danial Masih @ Daniel Masih, Registry Clerk issued a copy of the sale deed in which the photographs of Raman Kumar and Renu Sharma were attached as*

vendors. Subsequently, when copies of the sale deeds were supplied to the complainants in December, 2017, it transpired that the photographs of Raman Kumar and Renu Sharma had been changed with the photographs of Suresh Mahajan and Shweta Mahajan.

5. On 24-1-2022, this Court while issuing notice in the Special Leave Petition(Crl.) No.344 of 2022, had granted interim protection against the arrest of the petitioner –Mr. Pramod Kumar @ Parbodh Kumar – Accused No.7.

6. While Accused No.7 was working as a Computer Operator, Accused No.8 was working as a Registry Clerk in the Office of the SubRegistrar.

7. The High Court, after taking into consideration the material placed before it, has given its findings and found a prima facie case against the petitioners. In this context, Para 11, 12 and 15 of the impugned Order are reproduced below:

“11. The contention that Danial Maish was not posted as Registry Clerk in 2016 i.e. the year of registration of sale deeds needs consideration from another angle. In the year 2016 the sale deeds were registered by impersonation but the act to changing the record to cover up impersonation was done between October, 2017 to December, 2017. It is not disputed that Danial Masih was custodian of the physical record at the relevant time. The argument that case of the prosecution at best is that Danial Masih tampered with copies only needs no expounding at this stage. The allegations are that record maintained in the office of Registrar was tampered and it is evident from the fact that two copies of sale deeds supplied in October, 2017 and December, 2017 bear different photographs of the vendors. The official record for future reference was forged and on the basis of this record certified copies are issued, when asked for. There are serious allegations of government officials misusing their positions for changing the records in connivance with the private persons.

[12] Parmod Kumar continued as Computer Operator from the year 2016 when the sale deeds were registered to till date. In inquiry, he made a statement that computer record was sent to the office of NIC at Gurdaspur. However, on verification same was found not to be received there. It would be appropriate to note at this stage that as per prosecution, it was Parmod Kumar who clicked group photographs from the Camera attached to the computer. He was having domain and access to the computerized

record and as such without his connivance, the photographs on the Hard copy of endorsement of sale deeds could not have been blurred.

[15] It is well settled that filing of the civil suit for annulling of sale deeds by the complainant does not debar initiation of criminal proceedings where cognizable offence is made out. The fact that earlier complaint filed on similar allegations as in the present F.I.R. as withdrawn on the basis of compromise is of no help. As in the present case record of SubRegistrar pertaining to registered sale deeds was tampered with that too in connivance of the officials of the department. The conduct of the accused in changing the photographs in the copies issued in October, 2017 and December, 2017 and removing the hard copy from record of Sub-Registrar prima fade discloses commission of cognizable offence and is an indicator of necessity of custodial interrogation for further probe of the matter.”

8. Having heard learned Advocates appearing for the petitioners and on carefully perusing the material available on record, we are of the considered opinion that a prima facie case is made out against the petitioners.

9. Accordingly, we see no reason to interfere with the common impugned order passed by the High Court dismissing the anticipatory bail applications filed by the petitioners.

10. The Special Leave Petitions are, accordingly, dismissed.

11. The interim Order dated 24-1-2022, passed by this Court granting interim protection against arrest to the petitioner – Pramod Kumar @ Parbodh Kumar, stands withdrawn and he is directed to surrender within a period of two weeks from today.”

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the present petition for the grant of anticipatory bail and have submitted that when the present matter came up for hearing on 24.02.2022, the petitioner had relied upon the interim order dated 24.01.2022 passed by the Hon’ble Supreme Court in the SLP filed by the petitioner arising out of FIR No.206 dated 05.10.2021 and had also argued that the allegations in the said FIR No.206 are similar to

the allegations made in the present FIR, however, the Hon'ble Supreme Court by passing a detailed order dated 08.04.2022, has dismissed the said SLP and has directed the petitioner to surrender within a period of two weeks from the date of the said order, thus, the present anticipatory bail application deserves to be dismissed.

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

It is not in dispute that the anticipatory bail of the present petitioner has been rejected by the Hon'ble Supreme Court in FIR No.206 dated 05.10.2021 for the offence punishable under Sections 417, 419, 420, 465, 466, 467, 468, 471 and 120-B of the India Penal Code. It was the case of the petitioner as noticed in the order dated 24.02.2022, that the allegations in the said FIR were similar to the allegations made in the present FIR against the present petitioner. Even a comparison of the allegations made against the petitioner in FIR No.206 dated 05.10.2021 and in the present FIR would show that the allegations in both the FIRs are similar. It was the present petitioner, who was the Computer Operator at the time when the sale deeds, regarding which there were allegations of impersonation, had been registered and it was he, who had clicked the group photographs from the Camera attached to the Computer and who had access to the computerized record and had blurred the photographs of the impersonator on the hard copy of the sale deeds in question and had subsequently replaced the photographs of the impersonators with that of the original owners, in spite of the fact that the original owners had never appeared before the sub-registrar at the time of registration of the said

sale deeds. The allegations against the present petitioner are serious and his custodial interrogation would be necessary to complete the chain of events that resulted in the commission of the forgery/impersonation. Moreover, the present petition also deserves to be dismissed on the ground that in spite of a specific order passed by the Hon'ble Supreme Court directing the petitioner to surrender within a period of two weeks from 08.04.2022, he has not surrendered till date.

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

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

May 04, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes