

102

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8250-2022 (O&M)
Date of Decision:15.03.2022

Ramesh

.. Petitioner

Vs.

Staet of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Neeraj Sheoran, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Amit Arora, Advocate for the complainant.

...

Manoj Bajaj, J. (Oral)

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in a case FIR No.396 dated 23.09.2021 registered under Sections 420, 467, 468 and 471 IPC at Police Station Kalanaur, District Rohtak, who apprehends his arrest at the hands of Police.

The FIR was registered on the statement of Rajesh Kumar and the allegations as noticed by the ld. Addl. Sessions Judge, Rohtak in the order dated 13.12.2021 are as under:

“The present case was registered on the complaint of Tehsildar and Sub Registrar Kalanaur who moved complaint to the police to the effect that Rajesh Kumar son of Chiman Lal Resident of Village Nigana present moved an application that Atma Ram son of Gopal Dass R/o Nigana at present residing at Ganga Nagar, Odissa as owner sold his land 4 kanal 6 Marlas for Rs.6,24,000/- vide sale deed no.618 dated 16.06.2021 in favour of Sunil Kumar son of Biswnath Sharma son of Durga Dutt R/o H.No.529 Lohar Bajar Fulkan Gali Bhiwani Tehsil and District Bhiwani and Ramesh

Petitioner, in that sale deed another person stood in place of seller Atma Ram and his aadhar card wrongly prepared. On this investigation done with persons and record also reviewed. As per office record found that registered sale deed no.618 dated 16.06.2021 sold by Atma Ram son of Gopal Dass R/o Nigana now residing at Ganga Nagar Odissa in favour of Sunil Kumar son of Giswanath Sharma son of Durgadutt R/o Bhiwani and petitioner Ramesh for Rs.6,24,000/-. In that Chabi Parsad son of Badri Parsad R/o LMT Bahal Odissa put his witness as witness and witness no.2 identified by Amart Singh Sarbra Lambardar R/o Kalanaur Kalan. In the office record aadhar card of seller, aadhar card and pan card of purchaser, aadhar card of witness and identity card of lambardar is available. In relation of identification inquiry got conducted for seller Atma Ram the lambardars of village Nigana namely Sh. Raghbir Singh, Sh. Devraj, Sh. Ramniwas, Sh. Tilak Raj, Smt. Rajrani, Sh. Rai Singh retired Chowkidar and Charnjit son of Ram Chander and complainant Rajesh Kumar and all stated that they did never hear and see about the Atma Ram son of Gopal Dass in the village Nigana and no knowledge of above Atma Ram. In this relation a notice was give to purchaser and witness no.2 but they refused to receive the notice. Other witness Amrit Singh Sarbra Lambardar told that at the time of registration of sale deed he identified the witness no.2 Chabi Parsad son of Badri Parsad on asking of Gulshan Kumar son of Kharti Lal who known by him. Beside it he checked the aadhar card of seller and purchaser. The above Gulshan Kumar brings two sale deeds and he identified personally to Gulshan Kumar. About the ownership of land report by Halqa Patwari and found that the land shown in above sale deed in village Nigana owned by Atma Ram son of Gopal Dass since 1955 allotted on 10.09.1955. As per placed aadhar card the date of birth of seller is 14.06.1942 and at the time of land allotment the age of seller is less then 13 years i.e. suspected and the seller purchaser and witness no.2 could not present for inquiry is also suspected whereas the actual situation clear after the inquiry with them. In the above on the request of Rajesh Kumar son of Chiman Lal R/o Nigana FIR got registered and action may be taken. On these allegations, the above-mentioned case was registered in the Police Station Kalanaur against the petitioner.”

Learned counsel has argued that the allegations in the FIR by complainant Rajesh Kumar that land belonging to one Atma Ram has been sold by impersonation in favour of petitioner and co-accused, namely, Sunil Kumar s/o Giswanath Sharma, is false and the property in question was validly purchased by the buyers. He submits that the deal was facilitated

through a property dealer, namely, Ramesh Grover s/o Mange Ram to whom the petitioner had paid his share of sale consideration amounting to Rs.3,12,000/-, who further passed on the consideration by way of a cheque to the seller. According to him, the case of the prosecution is based on documentary material, therefore, his custodial interrogation may not be necessary, particularly when the complainant Rajesh Kumar has not suffered any wrongful loss, as admittedly, he is not the owner of the said land. He prays for anticipatory bail.

The prayer is opposed by learned State counsel assisted by learned counsel for the complainant, who has argued that in fact, no sale consideration was paid to the seller, as the cheque given towards sale price was never presented for encashment. He submits that the complainant is having possession of the land, therefore, having possessory rights has given this complaint for registration of the case. According to him, previously also, a similar transaction took place through the said property dealer Ramesh Grover and land was sold by way of impersonation, whereupon case FIR No.395/2021, under Sections 419, 420, 467, 468, 471 and 120-B IPC at Police Station Kalanaur, Rohtak was registered against the said accused.

After hearing the learned counsel for the parties and considering the above background, this Court is of the opinion that the facts and circumstances of the case may require custodial interrogation of the petitioner who is the beneficiary of this transaction, which prima facie seems to be carried out illegally. Learned counsel is unable to produce any document in favour of the petitioner to show that the transaction was done in a proper manner.

Resultantly, without meaning any expression of opinion on the merits of the case, this Court does not find it to be a fit case for releasing the petitioner on anticipatory bail.

Dismissed.

15.03.2022

Jasmine Kaur

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No