

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210-1)

CRM-M-9415-2022

Date of decision: - 04.05.2022

Rajinder Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Onkar Singh Batalvi, Advocate
for the complainant.

VIKAS BAHL, J. (ORAL)

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 (present petitioner) as well as Amarjit Singh Lambardar and that one employee of the Tehsil Complex, Pathankot, namely, Parmod Kumar, 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.

Learned counsel for the petitioner Rajinder Kumar has argued that in the present case, the sale deed is of the year 2016 (1/2/2016) and the FIR has been registered in the year 2022, after a long delay and the petitioner has already joined the investigation and he is not beneficiary in the present case and the entire case is based on documents, thus, his custodial interrogation is not required. It is further submitted that the petitioner Rajinder Kumar, who is a lambardar, is only an attesting

witness to the said sale deed. It is also submitted that the present petitioner is not an accused in the other FIR No.206 dated 05.10.2021.

Learned State counsel as well learned counsel for the complainant have vehemently opposed the present petition for anticipatory bail and have submitted that the present petitioner is a lambardar of the village whose duty is to attest documents and identify the persons executing the same and in case there is any wrong identification made by the lambardar, then, the same could mislead the authorities in registering the sale deeds etc. as reliance is placed upon the attestation of the said lambardar at the time of registration of documents. It is submitted that Shweta Mahajan, who was the owner of the property in question, has been impersonated by Renu Sharma and it was on account of attestation by the present petitioner, who was the lambardar, that the accused persons have managed to get the said false/fabricated sale deed registered. It is submitted that for carrying out these kinds of fraudulent acts, money is normally paid through cash and not through bank transactions. It is also submitted that the custodial interrogation of the petitioner is required in order to complete the chain of events resulting in the registration of the sale deed in question and also to find out as to who are the other persons involved.

With respect to the delay, it has been stated by learned counsel for the complainant that the moment the complainant came to know about the registration of the said forged/fabricated sale deed, she had brought it to the notice of the police, but on account of the fact that the concerned Superintendent of Police at that point was a relative of the

tehsildar Goraya and there was a possibility that even the said tehsildar could be implicated in the present case, thus, no action was taken by the said police official and it was only subsequently, when a petition i.e., CRM-M-38976-2021 was filed by Shweta Mahajan and her husband Suresh Mahajan, in which, an order was passed by this Court on 21.09.2021 directing the Inspector General of Police, Border Range, Amritsar to look into the entire matter, that the entire matter was enquired into and it was found that the sale deeds pertaining to the land of which the complainant and her husband were owners had been registered by impersonation.

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

In the present case, it is not in dispute that the present petitioner is a Lambardar and he had attested the sale deed dated 1/2/2016 regarding which it had been alleged that the original owner had been impersonated. The said sale deed is the subject matter of the present FIR. Complainant-Shweta Mahajan was admittedly the owner of the property in question, which was sought to be sold by the sale deed dated 01.02.2016 and it was alleged that it had been fraudulently shown that the complainant Shweta Mahajan had sold the said property, but it was Renu Sharma, who had appeared and had presented herself as Shweta Mahajan at the time of registration of the said deed. In the said sale deed, Shweta Mahajan was shown to be the seller, whereas, actually Shweta Gupta (Mahajan) had allegedly never appeared before the sub-registrar. The petitioner is a lambardar, who is appointed by the District Collector under

the Punjab Land Revenue Rules. When a lambardar attests a document or stands as a witness at the time of registration of any document, the government offices rely upon the attestation of the lambardar and the identification done by the lambardar during the registration of the sale deeds/other documents. Since the persons holding positions in these governments offices do not generally personally know the parties, who are executing the said documents, thus, they strongly rely upon the attestation of a lambardar for the purpose of identification of the said parties. In the present case, it is on account of attestation of the present petitioner, who was a lambardar, that the sale deed in question had been got registered by the co-accused by way of committing a fraud against the State Authorities and thus, the petitioner does not deserve the concession of anticipatory bail.

The custodial interrogation of the said petitioner would be necessary in order to bring forth the modus operandi followed by the accused persons in commission of the offences committed while registering the sale deed in question and also to find out as to who were the other persons involved in the said fraudulent act.

With respect to the argument of learned counsel for the petitioner to the effect that there was a delay in the registration of the FIR, suffice it is to note that as soon as the complainant had come to know about the alleged act, she had moved applications/representations to various police officials and since, the police officials did not take any action, a petition under Section 482 Cr.P.C. was then filed before this Court and it is only after the order dated 21.09.2021, was passed by a Co-

ordinate Bench of this Court, vide which the Inspector General of Police, was directed to look into the matter and decide the representation dated 31.08.2021, that the necessary enquiry was done and after the allegations made by the complainant were found to be *prima facie* true, the present FIR was registered.

Keeping in view the above-said facts and circumstances, the present petition for 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
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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes