

**215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-20573-2022
Date of decision : 19.05.2022****Prabh Dev Singh** **....Petitioner**
Vs.
State of Haryana and another **...Respondents****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Arvinder Arora, Advocate for the petitioner.
Mr. Bhupender Singh, DAG, Haryana.
Mr. Pankaj Mehta, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 438 Cr.P.C seeking anticipatory bail in case FIR No.107 dated 26.02.2022 under Sections 406 and 420 Indian Penal Code, 1860 registered at Police Station Naraingarh, District Ambala, who apprehends his arrest by police.

The above mentioned FIR was lodged at the instance of complaint by Rajinder Singh, partner of M/s Jagat Metals, wherein it was alleged that accused-Prabh Dev Singh being power of attorney of Jagan Nath son of Daulat Ram executed sale deed bearing No.1018/1 in his favour relating to land measuring 10 marlas comprising khewat No.55, Khatauni No.98/1, Khasra No.124//1/2 situated at Kala-Amb (HP), and similarly another land measuring 0 kanal 10 marlas was also sold by him being owner of the said land through another registered sale deed No.1017/1 on 08.09.1988. Somehow, the complainant could not get the above pieces of land mutated in his favour in revenue record, thus, taking undue advantage of the same, the accused further entered into an agreement to sell a land measuring 27 marlas with one Ramesh Chand son of Narata Ram on 02.09.2021. As per complainant, despite request

made by complainant, the accused refused to desist from the alleged illegal transaction and is bent upon to grab the land of the complainant. On these broad allegations, the FIR was registered for the alleged commission of offence punishable under Sections 406 and 420 IPC.

Learned counsel for the petitioner has argued that the petitioner has already filed a civil suit against the complainant and legal heirs of Jagan Nath in order to challenge the sale deeds executed by him on 08.09.1988. He has drawn the attention of the Court to the copy of the civil suit filed in December 2021 and submits that the said sale deeds were not executed by the petitioner, therefore, he has every right to alienate the land in question. Learned counsel has further argued that the wrongful loss, if any, is caused to the purchaser Ramesh Chand, with whom the petitioner has entered into a compromise (Annexure P-5), therefore, custodial interrogation of the petitioner may not be necessary. He prays for pre arrest bail of the petitioner.

During the course of hearing, it is not disputed by learned counsel that both the sale deeds were executed in September 1988 and during the life-time Jagan Nath for whom the petitioner was a general power of attorney holder, the petitioner never challenged the transfer of property, much less on the ground that it was not sold by him. It is also conceded that suit has been filed by the petitioner after executing the agreement to sell in favour of Ramesh Chand.

On the other hand learned State counsel as well counsel appearing on behalf of the respondent No.2 have opposed the prayer, who have argued that the petitioner was well aware that the title of the property does not vest in him as the property stood sold in favour of the complainant, therefore, the execution of the agreement to sell shows his intention to cheat the complainant also by attempting to deprive him of his lawfully acquired title of the property.

He submits that the custodial interrogation of the petitioner is necessary and prays for dismissal of the petition.

After hearing learned counsel for the parties and considering the above background, this Court finds that in the civil suit, the petitioner has also impleaded deceased-Jagan Nath through his legal heirs, to question the sale deed, which was executed by the petitioner being his General Power of Attorney holder, but the subject sale deed was never challenged by Jagan Nath or by his legal heirs independently during his life time. After the death of Jagan Nath, the General Power of Attorney of the petitioner ceased to exist, therefore, the mere filing of suit after executing the agreement to sell in question to Ramesh Chand may not have much significance, particularly when the same is at the initial stage. The other argument raised by petitioner that he has entered into compromise with Ramesh Chand is also immaterial as far as the rights of the complainant in the property are concerned, therefore, considering the above background, nature of the offence, this Court is not inclined to extend the extraordinary benefit of pre arrest bail to the petitioner as his custodial interrogation may be necessary.

Resultantly, without meaning any expression or opinion on the merits of this case, no case is made out for grant of extra ordinary concession of pre-arrest bail to the petitioner.

Dismissed.

(MANOJ BAJAJ)
JUDGE

19.05.2022

vanita

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No