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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23196-2021

Date of Decision: 04.03.2022

Ramesh Kumar

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Sarika Gupta, Advocate, for the petitioner.

Mr. C.L. Pawar, Senior Deputy Advocate General, Punjab.

Mr. M.S. Baath, Advocate, for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.34 dated 03.04.2021, under Sections 420, 468, 469, 471 and 120-B IPC, registered at Police Station Sadar Banga, District SBS Nagar.

The learned counsel for the petitioner has submitted that vide order dated 16.06.2021 while issuing notice of motion by this Court the petitioner had stated that in order to show *bona fide* the petitioner was ready to deposit Rs. 1,00,000/- with the Court concerned subject to the final

outcome of the criminal case. She further submitted that thereafter the aforesaid amount of Rs. 1,00,000/- was deposited in the Court. This fact has not been disputed by the learned State counsel or the learned counsel for the complainant. Learned counsel for the petitioner further submitted that the petitioner was also further directed to join investigation before the Investigating Officer and to abide by the conditions contained under Section 438(2) of the Code of Criminal Procedure and in pursuance of the aforesaid order, the petitioner has since joined investigation and has fully cooperated with the investigation process and, therefore, she has prayed that the aforesaid order may be made absolute.

The learned counsel for the petitioner further submitted that the primary dispute in the present case was pertaining to some land. The petitioner is the real brother of the complainant and there was a Will Annexure P-1 which was executed by the father of the petitioner and the complainant and thereafter, the petitioner had sold the land for a sale consideration of Rs. 2,90,000/- by stating that the petitioner was the only legal heir of the father. She further submitted that thereafter the complainant has also filed a civil suit challenging the sale deed and out of the total sale consideration of Rs. 2,90,000/-, the petitioner has already deposited Rs. 1,00,000/- before the Court to show his *bona fide* and since the matter is subjudice with regard to the legality of the same, coupled with the fact that the petitioner has joined investigation, the petitioner is entitled for the grant of concession of anticipatory bail.

Mr. C.L. Pawar, learned Senior Deputy Advocate General, Punjab has submitted on instructions from ASI Rampal that in pursuance of the orders passed by this Court on 16.06.2021, the petitioner has joined

investigation and has cooperated with the investigation process.

Mr. M.S. Baath, learned counsel for the complainant has opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner has cheated the complainant by giving a false description of legal heir of his father and, therefore, does not deserve the concession of anticipatory bail. He further submitted that the complainant has filed a civil suit challenging the aforesaid sale deed which is *subjudice*.

I have heard the learned counsel for the parties.

As per the learned State counsel, the petitioner has joined the investigation in pursuance of the orders passed by this Court on 16.06.2021 and has cooperated with the investigation process. The subject matter of the present dispute pertains to a land whereby the allegations were that the petitioner has sold the land for a sale consideration of Rs, 2,90,000/- by misrepresenting the facts that the father of the petitioner had no other legal heir. However, the said sale deed is being challenged in the Civil Court and the matter is still *subjudice* and apart from the same, out of the total sale consideration of Rs, 2,90,000/-, the petitioner has since been deposited an amount of Rs. 1,00,000/- in the concerned Court.

In view of the aforesaid factual position, this Court is of the considered opinion that the petitioner deserves the concession of anticipatory bail.

Consequently, the present petition is allowed and order dated 16.06.2021 whereby the petitioner was granted interim protection is hereby made absolute.

04.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking

: Yes/No

Whether reportable

: Yes/No