

CRM-M No.24958 of 2021 (O&M)
Date of Decision: 15.03.2022

Bhim Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGANPresent: Mr. Shekhar Verma, Advocate for
Mr. Shalender Mohan, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Kulwant Singh, Advocate for
Mr. Naveen Siwach, Advocate
for respondent No.2.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition for cancellation of anticipatory bail granted to respondent No.2-Azad Singh vide impugned order dated 09.06.2021, in case of FIR No.167, dated 13.05.2021, under sections 406, 420, 467, 468, 471 and 120-B of IPC, registered at police station Civil Lines, Hisar.

FIR was registered at the instance of complainant-Bhim Singh. As per the allegations, complainant entered into an agreement for sale of land with respondent No.2 on the basis of an agreement to sell between Azad Singh and the third party. There was a dispute regarding execution of sale deed. It is alleged that subsequently it revealed that agreement to sell between the third party and respondent No.2 was a

forged document.

Learned counsel for the petitioner submits that since there is forgery, this itself is a ground for custodial interrogation of respondent No.2-Azad Singh. He further argues that the Sessions Court had wrongly recorded that dispute is purely civil in nature.

Learned counsel for the State submits that respondent No.2 joined the investigation investigation is complete and challan stands presented and the matter is now fixed for framing of charges.

Learned counsel appearing for respondent No.2 opposes the prayer.

The Sessions Court while granting anticipatory bail considered the facts and circumstances in totality. It was also noticed that a civil litigation is pending between the parties and that the allegations were based upon the documentary evidence.

The contention is that Sessions Court erred in recording that the dispute was civil in nature, is noted to be rejected. The two line from the order are being read in isolation. Whereas it was specifically noted that there was nothing on record to suggest the agreement between third party and respondent No.2 was forged and fabricated document, it was recorded in this context that the dispute is with regard to breach of agreement. Moreover, while dealing with the prayer of anticipatory bail, Court is not expected to hold a mini trial.

The Hon'ble Supreme Court of India in paragraph 7 of ***'Myakala Dharmarajam and others Vs. State of Telangana and another, 2020 AIR (SC) 317'***, wherein considering "***Raghubir Singh vs. State of Bihar***", (1986) 4 SCC 481 wherein the Court held as under:-

“bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to”.

In the present case, no case is made out for interference in the impugned order. There are no allegations of misuse of the pre-arrest bail.

As per learned counsel for the State, investigation is complete and custody of respondent No.2 is not required.

The petition stands dismissed.

Since the main case has been dismissed, pending application has also become infructuous.

[AVNEESH JHINGAN]
JUDGE

15th March, 2022

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1. Whether speaking/ reasoned	:	Yes/No
2. Whether reportable	:	Yes/No