

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-25162-2020
Date of decision : 29.04.2022

Beant Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Ms.Puja Chopra, Advocate
for the petitioner.

Mr.Sidakmeet Singh Sandhu, AAG, Punjab.

Ms.Shivya Sehgal, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.128 dated 19.07.2020 registered under Sections 420, 465, 467, 468, 506, 120-B IPC at Police Station Samrala, District Khanna, Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, a purely civil dispute has been sought to be given a criminal colour. It is submitted that the complainant, by getting the present FIR registered, is primarily seeking rendition of the account associated with the brick kiln business in question as the petitioner, along with the complainant, and four other persons were partners in the said business. It is further submitted that, even as per the version of the complainant, the account statement had been given to the complainant at the time of handing over the

dissolution deed and in case the intent of the petitioner was malafide, then the account statement would not have been handed over to the complainant. It is further submitted that the complainant has filed the present complaint after a delay of more than 10½ months from the date of the dissolution deed i.e. 30.07.2018, i.e. on 14.06.2019 and the FIR was registered on 19.07.2020. It is also submitted that as far as amount of Rs.28 lacs as alleged to have been given by the complainant to the petitioner, is concerned, the same is just a bald allegation inasmuch as, neither there is any receipt regarding the same, nor any amount is stated to have been paid through a bank transaction. It is further submitted that the petitioner had been granted interim protection on 09.09.2020 by a coordinate Bench of this Court and has joined the investigation and has fully cooperated with the investigation team. With respect to aspect of forgery, it is stated that the said allegation has also been levelled against co-accused Kuldeep Singh and with the said Kuldeep Singh, the complainant has compromised the matter and even his anticipatory bail has not been opposed and in fact, the petition under Section 482 Cr.P.C., i.e. CRM-M-7045-2021 filed by the said Kuldeep Singh for quashing of FIR on the basis of compromise has been allowed vide order of even date, i.e. 29.04.2022. It is further stated that a coordinate Bench of this Court, vide order dated 08.03.2022, had even compared the signatures of the complainant appearing on the dissolution deed and those appearing on the instrument of power of attorney executed by the complainant in favour of the counsel appearing for him in the petition filed by the complainant, i.e. CRM-M-39792-2021. It is also stated that the prosecution had even asked the present petitioner to sign as 'Darshan Singh' so as to see whether the signatures of Darshan Singh which

are alleged to have been forged on the dissolution deed, have been done by the present petitioner or not. It is submitted that the FSL report regarding the same (at page 96 of the paper book) did not give any concrete results or definite opinion and at any rate, there is nothing on record from the side of prosecution to show that it was the petitioner who had signed as Darshan Singh on the said deed. It is also submitted that in the present case it is stated in the FIR itself that the copy of the dissolution deed had been given to the complainant. It is argument of learned counsel for the petitioner that in fact the complainant Darshan Singh had taken the same into his room and after coming out from the room, he had given the signed copy to the petitioner and has submitted that there is a chance that the complainant had intentionally himself signed differently on the said deed so as to institute the present case and falsely implicate the accused persons inasmuch as, he was unhappy with the his partners with respect to the aspect of rendition of account. It is also submitted that as per reply given by the State, more specifically, para 5 on page 85 of the paper book, all the original documents including the original dissolution deed dated 30.07.2018 and the original partnership deed dated 18.12.2010 and all other relevant documents were taken on record and thus, the custodial interrogation of the petitioner is not required and the petitioner has fully cooperated with the investigation in the present case. Moreover, the petitioner has been on interim bail for more than 1 year and 7 months on the basis of various orders passed by the coordinate Benches of this Court.

Learned State counsel has submitted that the petitioner has joined investigation and all the original documents have been recovered in the present case and the petitioner is not required for any further

investigation.

Learned counsel for the complainant has opposed the present petition for anticipatory bail and has submitted that in the present case, the FSL report dated 07.02.2020 would prima-facie show that the signatures of the complainant have been forged on the dissolution deed. It is submitted that in the FIR, it has been specifically mentioned that the complainant never signed the dissolution deed. It is also the argument of learned counsel for the complainant that the original documents, i.e. partnership deed and dissolution deed have not been recovered as yet. It is further submitted that as per para 10 of the reply submitted by the State, that the petitioner is required by the investigating agency for the purpose of recovery of the embazzled amount. Learned counsel for the complainant has relied upon the judgment of coordinate Bench of this Court in **CRM-M-34746-2012** titled as **“Balvir Singh vs. State of Punjab”** decided on 06.11.2022 to submit that in the said case, where there were allegations of forgery, anticipatory bail was rejected. Reliance has also been placed on the judgment of the Hon'ble Supreme Court of India in **Maruti Nivrutti Navale vs. State of Maharashtra and another** reported as **2013(3) RCR (Criminal) 235**.

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

A coordinate Bench of this Court vide order dated 09.09.2020 was pleased to issue notice of motion in this case and had also granted interim protection to the petitioner. The relevant portion of the said order is reproduced hereinbelow:-

“CRM-M-25162-2020

Notice of motion.

Ms.Monika Jalota, DAG Punjab, accepts notice on behalf

of the respondent-State. Ms.Shivya Sehgal, Advocate puts in appearance on behalf of the complainant.

For arguments, adjourned to 12.10.2020.

In the meanwhile subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438(2) Cr.P.C, in the event of his arrest in FIR No.128, dated 19.07.2020, registered under Sections 420, 465, 467, 468, 506, 120B IPC at Police Station Samrala, District Khanna (Ludhiana), he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

Before the adjourned date the State shall file a status report detailing therein the case of the prosecution qua the petitioner and if the petitioner is involved in any other criminal case with status thereof.

09.09.2020

**(Deepak Sibal)
Judge"**

In pursuance of the said order, the petitioner has joined the investigation and on 08.03.2022, another coordinate Bench of this Court passed the following order:-

"Case heard via video conferencing.

*Learned counsel for the petitioner in CRM-M-39792-2021, (the complainant in the FIR), seeks to rely upon a judgment of a coordinate Bench of this court in **Balbir Singh vs. State of Punjab** (CRM-M-34746- 2012), decided on 06.11.2021.*

Adjourned to 29.04.2022.

Though arguments were addressed at some length in the prelunch session today, however, with this court having observed that prima facie at least the signatures of the complainant in the FIR, as are present on the instrument of power of attorney ('Vakalatnama') executed by him in favour of learned counsel appearing for him, seem to be almost identical to the signature on the dissolution deed with that observation made only in the context of these petitions, learned counsel for the complainant seeks to address arguments in detail on that issue, she having taken instructions in the meanwhile that the complainant has not instituted any civil suit seeking that the said resolution deed be declared to be null and void.

Adjourned to 29.04.2022.

Interim order to continue, till the next date of hearing.

However, it is made abundantly clear that the aforesaid observation has essentially made by this court in the context of a petition filed under the provisions of Section 438 of the Cr.P.C. for the purpose of considering of granting/refusing anticipatory bail, and as regards whether or not the two signatures actually match, that would be a matter to be considered in any other appropriate proceedings, either before the trial court or before this court.

A photocopy of this order be placed on the file of the other connected case.

March 08, 2022

**(AMOL RATTAN SINGH)
JUDGE”**

From the above, it is, thus, apparent that for a period of almost one year and seven months, the petitioner has been on interim bail and nothing has been brought on record to show that the petitioner has misused the said concession. Learned State counsel has submitted that the petitioner has joined investigation and is not required for further investigation. Although, it is the case of the complainant that original documents have not been received but a perusal of the status report filed by way of affidavit of Jaswinder Singh Chahal, Deputy Superintendent of Police, Samrala, Police District Khanna, District Ludhiana dated 16.02.2021, would show that it has been specifically stated in paragraph 5 of the said reply that the original dissolution deed and original partnership deed have already been recovered by the investigating agency and have been taken on record. The relevant portion of paragraph 5 of the status report is reproduced hereinbelow:-

“5. That during the inquiry, all the documents were taken by the investigating agency. The original dissolution deed dated 30.07.2018 was also taken on record, the original partnership deed dated 18.12.2010 was also taken on record.”

From the above it is apparent that the relevant documents are already in possession of the police.

30.07.2018 and a copy of said dissolution deed, even as per the allegations levelled in the FIR, was given to the complainant. The complaint in the present case has been filed on 14.06.2019, i.e. after a delay of more than 10½ months from the date of the dissolution deed and the FIR was registered on 19.07.2020. A perusal of the dissolution deed dated 30.07.2018 would show that it was co-accused Kuldeep Singh who was to continue and carry on the business of the same firm under the same name and style, whereas all the other partners, including the present petitioner, had retired from the partnership firm. Further, clause 7 of the said dissolution deed shows that the books of accounts and other related records would remain with the continuing party, i.e. Kuldeep Singh. The relevant portion of the said partnership deed is reproduced hereinbelow:-

“And whereas Sh.Nirpal Singh, Sh.Beant Singh, Sh.Narotam Singh Gurm, Sh.Parbhjot Singh & Sh.Darshan Singh (hereinafter called as Retiring Parties) decides to retire from partnership firm with their Own consent and Sh.Kuldip Singh (hereinafter called as Continuing Party) decided to continue the same firm under the same name & style.

xxx xxx xxx

7. That all the books of accounts and other related records shall remain with the continuing party who shall be responsible and liable to keep them safely and to produce where ever deemed necessary.”

The complainant has compromised the matter with said Kuldeep Singh, against whom the allegation of forgery had also been made in the FIR and who was also party to the said dissolution deed. On the basis of the said compromise, the said Kuldeep Singh had filed a petition for quashing of the present FIR qua him and the said petition, i.e. CRM-M-7045-2021 has been allowed qua him on the basis of the statement recorded

pursue the case against Kuldeep Singh.

As far as allegations with respect to rendition of account and payment of the amount of Rs.28 lacs are concerned, suffice it is to say that the same is primarily a dispute having civil tappings and, as has been argued by learned counsel for the petitioner, there is no receipt or any document in writing or even a bank transaction to show that the said Rs.28 lacs had been paid by the complainant. However, the said aspect would be adjudicated during the course of the trial.

With respect to the allegations of forgery, it would be relevant to mention that apart from the fact that the complainant has already compromised the matter with Kuldeep Singh against whom also the allegations of forgery had been levelled in the FIR, as stated hereinabove, even the argument of learned counsel for the petitioner to the effect that the dissolution deed had been handed over to the complainant, who had gone into his room and had then come out and had given the dissolution deed back after signing the same and there is possibility that he had purposely signed on it differently so as to subsequently register the present FIR as he was already unhappy with the petitioner and the other partners on account of their interse disputes in running the partnership, cannot be outrightly rejected. The prosecution had even asked the petitioner to sign as 'Darshan Singh' but a perusal of the FSL report pertaining to the same would show that no conclusive finding or opinion had been given to say that it was the petitioner who had signed as Darshan Singh. The coordinate Bench of this Court vide order dated 08.03.2022, which is reproduced hereinabove, had observed that, prima facie, the signatures of the complainant on the instrument of power of attorney (vakalatnama) executed by him in favour of

learned counsel appearing for him in the petition, i.e. CRM-M-39792-2021 seemed to be almost identical to his signatures on the dissolution deed in question. This Court is sanguine of the fact that no definite opinion is to be formulated on the basis of the said observation but keeping in view all the aforesaid factors, it would be a matter of debate as to whether the petitioner is liable for the offence of forgery or not, which would be finally adjudicated during the course of the trial. This Court does not wish to give any final opinion as the same would prejudice the case of either of the parties before the trial Court. The fact that the petitioner has been on interim bail for the last more than 1 year and 7 months and has not misused the said concession, and has also joined investigation and even as per the State, is not required for further investigation, and also fact that the original documents have already been recovered, would weigh in favour of the petitioner for confirming the interim bail granted to the petitioner.

The judgments referred to by the learned counsel for the complainant are on different set of facts than the present case. As far as the judgment of coordinate Bench of this Court in **Balvir Singh's** case (supra) is concerned, one of the primary factors which weighed with the Court while rejecting the anticipatory bail, was that the indicated forged will therein had to be recovered. In the present case, the original documents have already been recovered as has already been confirmed by the reply filed by the State. In the above said case, there was also an allegation that after execution of the said forged will, the accused had entered into and stolen the articles lying in the house. Further, the arguments which are sought to be raised by the petitioner in the present case, including the argument as to the factum of compromise effected with the co-accused Kuldeep Singh,

against whom the same allegations of forgery were also made and various other issues were not before the coordinate Bench in the said case and thus, the said judgment does not further the case of the complainant on all the said counts. The judgment of Hon'ble Supreme Court of India in ***Maruti Nivrutti Navale's*** case (supra) is also distinguishable from the present case. In the said judgment it was specifically observed in para 13 that as per the stand of the respondent therein, the accused therein had misused his liberty and was creating hindrance in the investigation and was also intimidating and pressurizing the complainant as well as the PWs. There is no such allegation in the present case. Moreover, in the above said case, the forged / fabricated documents were yet to be recovered as per the reply filed by the State. Further, in the above said case, the State had vehemently opposed the claim of anticipatory bail as apparent from para 10 of the said judgment and had submitted that the custodial interrogation of the accused therein was necessary as the accused had even submitted false / forged documents / information to the education department while obtaining permission for running the school and had thus, not only committed an offence against the complainant but also against the State and the public at large. In para 11 it was noticed that the accused therein was involved in various heinous offences. On the other hand, in the present case, as per the State counsel, the petitioner has joined the investigation and has handed over the original documents and is not required for further investigation and the petitioner has been on interim bail for the last more than 1 year 7 months and has not misused the concession of interim bail.

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and the interim order dated

09.09.2020 is made absolute.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

April 29, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No