

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-27869-2022

Date of Decision:-04.07.2022

Sunil Kumar.

.....**Petitioner.**

Versus

State of Punjab.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Loveneet Thakur, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the petition under Section 438 Cr.PC is for grant of anticipatory bail to the petitioner in case FIR No.60 dated 23.05.2022 under Sections 420, 120-B, 167 IPC registered at Police Station Division No.4, District Police Commissionerate Ludhiana, Punjab.

As per the prosecution case, the FIR was registered on the basis of a complaint made by complainant Chander Kanta, wherein it has been alleged that the complainant along with Vidya Wanti, Sudarshan, Santa daughters of Krishna Devi, Sunil Kumar and Manmohan sons of Parladh Chand are the owners in possession of House No.B-IV-249 (old) and B-IV-1600 (new) situated at Mohalla Bandian, Daresi Ground, Ludhiana. These persons had executed a general power of attorney in favour of the complainant on 01.05.2006 registered with Sub Registrar, Ludhiana vide

wasika no.102. However, the petitioner Sunil Kumar got the aforesaid house transferred in his name in connivance with the concerned employees of the Municipal Corporation by way of producing forged and fabricated documents in order to play a fraud with the other co-sharers with an intention to get wrongful gain for himself and to cause wrongful loss to the other co-sharers. Hence the complainant sought legal action against Sunil Kumar as well as the concerned officials of the Municipal Corporation. On the basis of complaint made by the complainant, the matter was probed into and it was found that Sukhvir Singh Block Clerk, Rajiv Jain Inspector, Ajay Walia @ Babbu Walia and Sunil Kumar, in connivance with each other, defrauded the complainant and hence, FIR was registered against them. The role of the petitioner has come clearly in the investigation as it was found that Sunil Kumar got registered General Power of Attorney dated 01.05.2006 in favour of the complainant Chander Kanta and he also got a photo clicked. Subsequently, on the basis of the unregistered Will dated 07.07.2005 of Nirmala Devi, he got the property transferred in his favour and sold it further. If Nirmala Devi had executed any Will in favour of Sunil Kumar, it should have been disclosed by him to the other legal heirs and he would not have executed the GPA dated 01.05.2006 in favour of the complainant. Thus the Will becomes suspicious. The complainant Chander Kanta has denied her signatures on the affidavit purportedly executed by her and claimed it to be forged.

The Counsel for the petitioner contends that it is a civil dispute regarding the veracity of the Will and as such the custodial interrogation of the petitioner is not required. He contends that no competent authority has reached the conclusion about the Will being a forged and bogus and the

complainant has concocted a false story just to pressurize the petitioner and his co-accused to give a criminal flavour to a civil dispute. He further contends that no dispute with regard to any kind of property was raised for a number of years and now when it has been sold the complainant has lodged this false FIR to extract money from him. He contends that two of his co-accused Sukhvir Singh Sethi and Rajiv Jain, who are employees of MC Ludhiana have been granted the concession of interim anticipatory bail and, therefore, he ought to be granted the same relief.

The Counsel for the State on the other hand contends that after the filing of the complaint a detailed inquiry took place. It was found that initially all the legal heirs of Nirmala Devi had executed a registered GPA in favour of the complainant Chander Kanta on 01.05.2006 and the petitioner was also a party to the said document. However, after having executed the GPA on 01.05.2006 the petitioner presented an unregistered Will dated 07.07.2005 of the said Nirmala Devi at the office of MC Ludhiana and got the property transferred in his name and further sold it ahead. He thus contends that had there been a Will dated 07.07.2005, the petitioner would not have executed GPA dated 01.05.2006 in favour of the complainant along with other legal heirs of Nirmala Devi and would have definitely informed the other legal heirs that there was a Will in his favour. Even otherwise, the complainant has denied her signatures on the affidavit dated 13.02.2020 and has called the same a forgery.

I have heard learned Counsel for both the parties at length.

The petitioner is the beneficiary of the allegedly forged Will and the allegations of preparing the same are against him. Thus, prima facie, it cannot be said that the case is one of civil nature. In fact the

original Will and the original affidavit are required to be sent to the FSL for comparison of signatures and these documents are to be recovered from the petitioner for which his custodial interrogation is necessary. So far as the co-accused of the applicant are concerned, they are not the beneficiaries of the Will and are employees of MC, Ludhiana. Thus, even though they have been granted the concession of interim anticipatory bail, the same relief cannot be granted to the petitioner. In fact, in the present case, the custodial interrogation of the petitioner is absolutely necessary so as to ascertain the manner in which the offence has been committed by him and the names of other persons who were a party to the conspiracy.

In view of the above, I find no merit in the present petition and, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

July 04, 2022
Vinay

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