

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

**CRM-M No.31668 of 2021
Date of Decision: 18.02.2022**

Ashwani Kumar

.....Petitioner.

Versus

State of Haryana

.....Respondent.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Randeep Singh, Advocate
 for the petitioner.

Ms. Ambika Sood, Addl. A.G, Haryana.

MEENAKSHI I. MEHTA, J.

The petitioner herein has sought the relief of regular bail in the criminal case arising out of the FIR bearing No.0222 dated 02.07.2021 registered at Police Station DLF Phase-1, Gurugram, under Sections 420, 467, 468, 471, 120-B IPC, wherein the offence under Section 201 IPC is stated to have been added later-on.

Shorn and short of unnecessary details, the allegations, as levelled by complainant Jagdeep Singh in the subject FIR, are that the co-accused of the petitioner named Himba Shiena is his wife and there is a matrimonial discord between them. The petitioner is his former employee, who had been thrown out of the job because of his having siphoned off the funds from the account of his (complainant's) Company. His mother was

the owner of a Flat in Gurugram and she had bequeathed the same to his (complainant's) father vide the Will duly registered on 22.10.2008. After the death of his mother, his father became the exclusive owner of the said Flat and after the death of his father, he (complainant) inherited this Flat as well as other properties of his father. However, his wife and the petitioner forged a Will dated 27.05.2009 purported to have been executed by his mother in favour of his wife, i.e the co-accused of the petitioner. His wife filed a civil suit on the basis of the said Will which was decreed and thereafter, he came to know about the alleged Will.

Reply has already been filed on behalf of the respondent-State, by way of the affidavit of the Assistant Commissioner of Police, DLF, Gurugram.

I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the petitioner is merely an attesting witness to the Will in question and he is not a beneficiary thereof and rather, it is his afore-named co-accused, i.e the wife of the complainant, who has been declared to be the owner of the above-said Flat on the basis of the said Will and moreover, the petitioner is behind the bars since 07.07.2021 and the Challan has already been presented and in these circumstances, he (petitioner) deserves the relief as prayed for in this petition.

Per contra, learned State counsel argues that the petitioner has

actively participated in the crime by signing the said forged Will as an attesting witness and keeping in view the gravity of the offence, this petition be dismissed.

The complainant has categorically alleged in the FIR that his mother had bequeathed the afore-said Flat to his father vide the registered Will dated 22.10.2008. The Will in question is claimed to have been executed by her thereafter on 27.05.2009. It has specifically been deposed in Para No.2 of the Reply that the petitioner had admitted his signatures on the Will in dispute, before the Court and Para No.4 therein, it has been further mentioned that in his statement as recorded under Section 161 Cr.PC, Parveen Kumar Angrish, the Notary Public, whose stamp appeared on the forged Will dated 27.05.2009, has stated that the above-said Will had not been notarized by him and there was no entry to this effect in his Register for the year 2009 and that at that time, he had been using the traditional wooden stamp whereas the self-inking stamp had been used on the said Will and that the stamp and the signatures on this Will did not pertain to him and he did not know anything about the same.

Even if the petitioner is not stated to be a beneficiary of the Will in dispute, even then the fact remains that the complainant has categorically alleged in the FIR that he (petitioner), in connivance with his co-accused (complainant's wife), had siphoned off the funds of his (complainant's) Company and had been thrown out of the job on this score and he (petitioner) is an attesting witness to the disputed Will as claimed by his said co-accused to have been executed in her favour qua the said Flat.

Keeping in view the gravity of the allegations as levelled against the petitioner, mere period of his incarceration since 07.07.2021 does not suffice at all to grant him the benefit of regular bail and that too, in the eventuality when the charges have not been framed and thus, the trial is yet to commence in the case.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

February 18, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*