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

CRM-M-33969-2021
Date of Decision: 25.07.2022

Satwinder Singh Petitioner
Versus

State of Punjab Respondent

CRM-M-7555-2022

Gurmeet Kaur Petitioner
Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.P.S. Chakkal, Advocate for
Mr. S.S. Sarwara, Advocate,
for the petitioner in CRM-M-33969-2021.

Mr. L.S. Sidhu, Advocate for
Mr. Naresh Prabhakar, Advocate,
for the petitioner in CRM-M-7555-2022.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. Saurabh Bajaj, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

Both the petitions have been filed under Section 438 of the Code of Criminal Procedure and are being taken up together for final disposal with the consent of the learned counsel for the petitioners, since both the petitions arise out of the same FIR.

Both the petitions have been filed for grant of anticipatory bail in case bearing FIR No.432 dated 26.07.2021, under Sections 420, 465, 467,

468, 471 & 120-B of the IPC, registered at Police Station Zirakpur, District SAS Nagar, Mohali.

As per the allegations contained in the FIR dated 26.07.2021, a sale deed was registered in the office of Joint Sub Registrar, Zirakpur on 07.07.2021 in which the vendor was one Ajaib Singh son of Harbans Singh and the vendee was one Gurmeet Kaur (Petitioner in CRM-M-7555-2022). The cheque pertaining to the sale consideration was not encashed by nobody. On 23.07.2021, the son-in-law of aforesaid Ajaib Singh made a complaint that the aforesaid Ajaib Singh has already died long ago and someone else has impersonated Ajaib Singh and his property was being sold to the petitioner-Gurmeet Kaur. As per the agreement, the sale consideration was of Rs.40 lacs. One of the petitioner in the present case, namely, Satwinder Singh was the person through whom the sale deed was effected and he was a property dealer. In this way, the present FIR was lodged.

Petitioner-Satwinder Singh filed the present petition in which notice was issued on 07.10.2021 and he was granted interim protection as one time arrangement and thereafter, the interim order was directed to be continued by this Court. The other petitioner, namely, Gurmeet Kaur was also granted interim protection by this Court on 23.02.2022. The matter was again taken up on 13.07.2022 where the State counsel stated that both the petitioners have joined the investigation but they are not cooperating with the investigation process since the original sale deed was not handed over to the I.O. The learned counsel for the petitioner in Gurmeet Kaur's case had stated that the original sale deed will be handed over within a period of three days and the interim order was directed to be continued.

Mr. L.S. Sidhu, Advocate for Mr. Naresh Prabhakar, Advocate has caused appearance on behalf of petitioner-Gurmeet Kaur and has stated that the petitioner-Gurmeet Kaur is a lady aged 41 years and is a *bona fide* vendee/purchaser for the sale consideration. She had issued a cheque and sale deed was registered in her name but she was not even aware that someone else had impersonated Ajaib Singh and she had got the sale deed executed in good faith but later on a complaint was filed by the complainant, who is the son-in-law of the aforesaid Ajaib Singh by saying that the aforesaid Ajaib Singh has already died and she herself became a victim of the aforesaid incident. He further submitted that the petitioner-Gurmeet Kaur has not got possession of the property nor the cheque issued by her has been deposited anywhere and in pursuance of the orders passed by this Court, she has already submitted the original sale deed to the I.O. and he further submitted that rather Petitioner-Gurmeet Kaur herself made a complaint to the Sub Registrar with regard to the aforesaid episode in pursuance of which, the present FIR was got lodged, and therefore, her *bona fide* cannot be discredited. He also submitted that now she has not only joined the investigation but she has also cooperated with the investigation process in all respect, and therefore, the interim bail granted to her may be made absolute.

Mr. S.P.S. Chakkal, Advocate for Mr. S.S. Sarwara, Advocate has caused appearance on behalf of the petitioner-Satwinder Singh and has submitted that the petitioner-Satwinder Singh has also joined the investigation in pursuance of the orders passed by this Court on 07.10.2021 and it is a case where the petitioner is not involved in the present case. He

further submitted that neither the cheque amount has been credited in favour of anybody nor the petitioner is aware with regard to any impersonation, although, the deal was stuck with the aid of the petitioner-Satwinder Singh as he was a property dealer and has therefore, prayed that the interim bail granted to him may be made absolute.

On the other hand, Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab has submitted that so far as the petitioner-Gurmeet Kaur is concerned, she has already joined the investigation and she has deposited the sale deed with the I.O., and therefore, she has fully cooperated with the investigation process and she is not required for further custodial investigation. He has, however, submitted that so far as the other petitioner-Satwinder Singh is concerned, although he has joined the investigation but he failed to cooperate with the investigation process. He further submitted that it is a case of impersonation of one Ajaib Singh, who has already died long ago, whose property was being sold in favour of petitioner-Gurmeet Kaur. The petitioner-Satwinder Singh, who is a property dealer and rather the entire *modus operandi* in the present case was that the petitioner knew that the aforesaid Ajaib Singh is dead and a fake account had been opened in the name of Ajaib Singh, although no money was deposited in that account and consequently, the sale consideration was required to be transferred in the name of aforesaid account which was opened in the name of the deceased Ajaib Singh but the entire game was disrupted by the complainant, who immediately informed the Sub Registrar with regard to the same and ultimately the present FIR was lodged. He also submitted that the property dealers always have knowledge of the property

as well as the owners of the property and no presumption can be drawn that the petitioner-Satwinder Singh was not aware of the fact that Ajaib Singh had already died. Rather a fake account was opened in the name of Ajaib Singh. He further submitted that the offence in the present case was serious, since it pertains to impersonation for getting a sale deed registered on behalf of a dead person. Learned State counsel specifically submitted on instructions of ASI Nirmal Singh, who is present in the Court that the petitioner-Satwinder Singh was although granted interim protection by this Court but he has not disclosed the name of the person, who had actually impersonated the deceased Ajaib Singh and his joining of the investigation was merely an empty shell since he did not cooperate at all. He has however submitted that so far as the petitioner-Satwinder Singh is concerned, his custodial investigation is required so as to elicit the truth and for that purpose, he has also relied upon the judgment passed by the Hon'ble Supreme Court in "*State represented by C.B.I. Vs. Anil Sharma*", (1997) 7 SCC 187 that for the purpose of qualitative interrogation, in the facts and circumstances of the case, custodial interrogation is the only option.

Mr. Saurabh Bajaj, Advocate has caused appearance on behalf of the complainant and has stated that so far as the petitioner-Gurmeet Kaur is concerned, who is a lady, she has already joined the investigation and he is not opposing the bail if granted to her but he has opposed the grant anticipatory bail to the petitioner-Satwinder Singh on the ground that the petitioner was the person, who is responsible for impersonation and he was bound to disclose the identity of the person, who had impersonated on behalf of Ajaib Singh.

I have heard the learned counsel for the parties.

So far as the petitioner-Gurmeet Kaur, who is a lady aged 41 years, is concerned, the learned State counsel has already stated on instructions that she has joined the investigation and she has also cooperated with the investigation process and even the original sale deed has also been deposited with the I.O. and she is not required for custodial investigation.

In view of the specific stand taken by the learned DAG, Punjab, the CRM-M-7555-2022 pertaining to the petitioner-Gurmeet Kaur is allowed and the order dated 23.02.2022 is hereby made absolute.

So far as CRM-M-33969-2021 filed by the petitioner-Satwinder Singh is concerned, the same has been vehemently opposed by both the learned State counsel as well as by the learned counsel for the complainant. It has been specifically submitted by the learned State counsel that although the petitioner-Satwinder Singh was granted interim protection by this Court but his joining of investigation was merely an empty shell since it was a case of impersonation where the sale deed was executed. The submission made by the learned State counsel that non-disclosure of the person, who had impersonated and various other sources are required for the investigation process, so the custodial investigation of the petitioner was required does carry weight. The fact remains that the registered sale deed was effected and Ajaib Singh whose property was sold was already dead at the time of registration of sale deed. Therefore, impersonation has taken place and an account has also been opened as per the learned State counsel in the name of Ajaib Singh in the Bank. The petitioner-Satwinder Singh during the course of investigation has not cooperated with the investigation

as per the learned State counsel. Therefore, this Court is of the view that in the aforesaid facts and circumstances, the custodial interrogation of the petitioner was required. Consequently, the petition qua the petitioner-Satwider Singh is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

25.07.2022

Bhumika

**(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes |