

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-45189-2022 (O & M)****Date of decision: 04.11.2022**

Gajinder Kumar

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kanwar Pahul Singh, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. J.S. Thind, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No. 272 dated 04.09.2022 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Civil Lines, Amritsar.

2. The present FIR came to be registered on an application dated 09.12.2021 of the complainant Sukhdev Singh against Gajinder Kumar son of Raj Kumar, Mahinder Singh son of Swaran Singh, Ramesh Kumar son of Ram Kishan, Satnam Singh son of Kartar Singh, Jagjeet Singh son of Amreek Singh, Balkirat Singh son of Sher Singh, Karnail Singh Nambardar, Anil Kumar Sharma, Vasika Nawis Tehsil Complex Amritsar, Harwinder Singh Patwari, Dhaman Singh, P.P. Singh Goraya, Sub Registrar, Amritsar and Manjit Singh Tehsildar, Tehsil Amritsar-2. It was stated in the

owner of a property bearing No.401, measuring 24 Marle Khewat No.135 Khatauni Number 1660 situated at Tung Bala, Basant Avenue Amritsar. Smt. Ram Piari was his widow but one another lady i.e. Sunila Kumari was also claiming to be his wife. After the death of Piare Lal Bhagat, in order to declared herself the owner of his property, Ram Piari had filed a suit in the year 1987 and the said litigation was pending before this Court vide RSA No.2821 of 1993 and 2822 of 1993. Ram Piari had executed an agreement to sell in his (complainant's) favour on 01.01.1997 regarding house No.401 for a sum of Rs.12,00,000/- out of which, she had received Rs.8,00,000/- as earnest money. When she did not executed the sale deed, he filed a civil suit which was partly decreed by the Court of ACJ, SD, Amritsar on 12.01.2010. An appeal was preferred and was allowed by the District and Sessions Judge, Amritsar vide judgment and decree dated 11.04.2011. Thereafter, in execution proceedings, the sale deed was executed in his favour on 05.10.2011 and the remaining amount of Rs.4,00,000/- was deposited in the Court. Ram Piari had also executed a Special Power of Attorney on 25.09.1989 and a General Power of Attorney dated 15.07.1991 in his favour. The Sub Registrar PS, Goraya had executed the aforementioned sale deed on the orders of the Court and was, therefore, aware of the facts. However, accused Satnam Singh got prepared a forged Will dated 12.04.1986 of Piare Lal Bhagat in his favour in connivance with Karnail Singh, Nambardar and Balkirat Singh and on 03.09.2019, he connived with PPS Goraya, Balkirat Singh and Jagjit Singh and got the same registered under Section 40 of the Registration Act despite the fact that the said document was carrying forged signatures of Piare Lal Bhagat. Likewise, Gajinder Kumar (petitioner) in connivance with

prepared another forged Will of Ram Piari dated 03.07.2010 and thereafter in connivance with PPS Goraya, Sub Registrar, got the same registered under Section 40 of the Registration Act on 09.10.2019. The same also carried forged signatures of Ram Piari. The above-named persons got registered two mutations i.e. one of Piare Lal Bhagat bearing No.22461 and another of Ram Piari bearing No.22464 in connivance with Patwari and Kanoongo in favour of Gajinder Kumar (petitioner) which was disapproved. Thereafter, the accused persons again in connivance with the officials got registered mutation bearing No.22638 and 22639. The hearing of the dispute regarding the said mutations were pending in the Court of SDM-2, Amritsar. The said Will has been prepared with a view to use the same in the appeals pending before the High Court. He (complainant) had been apprising the authorities about the various litigations from time to time. Similarly, various applications had been submitted in the office of the Revenue Authorities to conduct an enquiry against the aforementioned accused but no concrete action was taken on the said applications. If the signatures on the Will purportedly executed by Ram Piari in favour of the accused was compared with her original signatures, the truth would be revealed.

3. The learned counsel for the petitioner contends that the complainant wants to grab the property worth crores situated in a posh area of Amritsar which has led to the registration of the present FIR. In fact, he has got an ex parte decree on the basis of the Power of Attorney allegedly executed by Ram Piari who is stated to be a widow of the said Piare Lal Bhagat. The conduct of the complainant in purchasing the property through the Court smacks of *mala fides*. Multiple civil/revenue cases were pending

question, which is said to be forged would be a subject-matter of examination during the course of pending civil/revenue litigations, and therefore, as the parties were yet to prove their respective cases, the custodial interrogation of the petitioner was not required as the entire case is purely civil in nature and no case for custodial interrogation is made out.

4. The learned counsel for the State, on the other hand, contends that civil proceedings and criminal proceedings can co-exist and mere pendency of civil proceedings with respect to a document in question would not bar appropriate criminal proceedings in the facts and circumstances of a particular case. While referring to the reply dated 31.10.2022, the learned counsel for the State contends that during the course of enquiry conducted by the Deputy Commissioner of Police (Detective), Amritsar, the Will dated 03.07.2010, was obtained from the petitioner-Gajinder Kumar and the signatures of Ram Piari available on the aforesaid Will dated 03.07.2010 were got compared from FSL, SAS Nagar, Punjab with the admitted signatures of Ram Piari which were available on the KYC Form of account No.0161000226236 at Punjab and Sind Bank, Branch Islamabad, Amritsar. As per the said reply, the person who had written the red enclosed standard signatures stamped and marked as A1 to A6 had not written the red enclosed questioned signatures Q1 appearing on the Will. He, thus, contends that once the Will in question has been found to be prima facie forged and the beneficiary of the same is petitioner, the custodial interrogation of the petitioner is certainly required looking into the gravity of the offence and to take the investigation to its logical conclusion. Further, the custodial interrogation of the petitioner is also required to verify the roles of the officers/officials of the Revenue Department and for proper and fair

5. I have heard the learned counsel for the parties at length.

6. In the present case, undoubtedly, various civil/revenue proceedings are pending between the parties as referred to in the FIR as also in the reply of the State dated 31.10.2022. However, quite apparently, the Will allegedly executed by Ram Piari in favour of Gajinder Kumar (petitioner) dated 03.07.2010 has been found to be forged by the investigating agency as per the report of the FSL (Annexure R-1).

Thus, the custodial interrogation of the petitioner is required not only to ascertain the role of the other accused including the Government officials but also to take the investigation to its logical conclusion. Even otherwise, the Hon'ble Supreme Court in _____ vs. Arun Kumar C.K. & Anr. (Criminal Appeal No.1834/2022 @ Petition for Special Leave to Appeal (Crl.) No.7188/2022, decided on 21.10.2022), has held that the non-requirement of custodial interrogation cannot be the sole ground for grant of anticipatory bail.

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

(JASJIT SINGH BEDI)
JUDGE

November 04, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No