

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

CRM-M-51743-2021

Date of decision: 20th January, 2022

ASHWANI KUMAR

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Argued by: Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

Mr. Amreek Singh Narwal, DAG, Haryana
for the respondent-State.

Mr. Aditya Sanghi, Advocate
and Mr. Lokesh Sharma, Advocate
for respondent No.2/complainant.

SANT PARKASH, J.

1. The case has been taken up for hearing through video conferencing.
2. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in case, FIR No.289 dated 12.04.2021 registered under Sections 323, 417, 420, 452, 467, 468, 471, 506 and 120-B of the Indian Penal Code, 1860 at Police Station City Narnaul, District Mahendergarh.
3. Brief facts of the case are that complainant Vijay Kumar

Goswami filed complaint alleging that Ashwani (petitioner) had got prepared many documents including agreement to sell dated 23.01.2013 and the accused/petitioner forged the said agreement with mala fide intention to grab his land situated at Behror Road. In the said agreement attendance of complainant, her mother, Smt. Savitri, power of attorney through Vijay Kumar Goswami, as first party, Ashwani Kumar (petitioner) as second party and witnesses Suman Goswami and Bhagwat has been shown. The accused/petitioner took lacs of rupees from the complainant and his family and when the complainant demanded the money back, the accused/petitioner got annoyed and entered his house and threatened to kill him (complainant) and his family members.

4. It has been further alleged that the accused/petitioner forged the agreement dated 23.01.2013 by getting appended the signatures of Advocate Pragya Sharma wherein an endorsement has been made by Advocate Pragya Sharma under her handwriting that the complainant and his mother had received Rs. 20 lacs before her. The said agreement was produced by the accused/petitioner in Sessions Court, High Court and Hon'ble Apex Court and signatures of Advocate Pragya Sharma were not present on the agreement during the whole proceedings. The accused/petitioner has forged the said agreement with intention to cause wrongful loss to the complainant and also demanded money on the basis of the said forged agreement. Complaint was sent under Section 156(3) of the Cr.P.C. for registration of the case and the present FIR was registered against the petitioner.

5. The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Jitender Kumar, HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh.

6. The petition has also been opposed by learned Counsel for the complainant in terms of reply filed on behalf of the complainant.

7. I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the case file.

8. Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case by converting a civil dispute into a criminal case by the complainant. The alleged agreement to sell is of the year 2013 and the present FIR has been registered after a gap of 8 years. The petitioner filed civil suit for possession by way of specific performance of agreement for sale dated 23.01.2013 on 19.07.2019 in which the learned trial Court had passed status quo order with regard to the alienation of the suit land. The complainant had already received an amount of Rs. 20,00,000/- and now the complainant wants to grab the money of the petitioner by getting registered the present FIR. There was only one agreement to sell dated 23.01.2013 which the Advocate Pragya has signed later and said document is not forged. The entire case is based on documentary evidence and the custodial interrogation of the petitioner is not required. The petitioner is ready and willing to join the investigation.

9. Opposing the contentions, learned State Counsel in view of

reply/status report has submitted that allegations against the petitioner are serious and custodial interrogation of the petitioner is required for thorough and fair investigation and also for recovery of the original forged agreement as alleged in the complaint. Therefore, the present petition for grant of anticipatory bail may be dismissed.

10. Learned Counsel for the complainant has submitted that the petitioner has made many agreements without consideration and has taken lacs of rupees from complainant and his family. The agreement to sell was scribed in the year 2013 and the same was fabricated and forged by the accused/petitioner in the year 2019 intentionally to grab the property and money from the complainant. There were only two witnesses namely Bhagwat and Sumant Goswami to the agreement and signatures of Advocate Pragya Sharma were not present on the said agreement. The accused/petitioner to gain undue advantage got filed civil suit for possession by preparing false and forged agreement. The petitioner has committed serious offence and therefore, the present petition for grant of anticipatory bail to the petitioner, may be dismissed.

11. The petitioner has pleaded in the petition that there was only one agreement dated 23.01.2013 which was written in the presence of Bhagwat and Sumant but another attesting witness namely Pragya Sharma Advocate, who was called by the complainant could not reach on time and photocopy of the agreement was handed over to the petitioner by the complainant for reading purpose and original of the same remained with the complainant but after sometime, Advocate

Pragya Sharma also reached and signed the same in her own handwriting and endorsed that the complainant has received Rs.20,00,000/- and after getting photocopy, agreement was given to the petitioner. There is only one agreement between the parties and the complainant is trying to take the benefit of the agreement which was given to the petitioner for reading purpose.

12. On the other hand, as per the version of the complainant, the accused/petitioner played fraud upon him by getting prepared a '*Numayshi*' agreement without any sale consideration to achieve unlawful gain and to grab property and money from him.

13. In the present case, there is no dispute with regard to the contents of the agreement dated 23.01.2013 and the only disputed question is that the agreement so produced later on did not contain the signatures of Advocate Pragya Sharma which she has made statement that she never signed it. Her statement to the effect has also been recorded in view of status report by way of affidavit of Narender Kumar, HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh, which is reproduced as under :-

“ Stated that she is the resident of the above address and advocate in Narnaul Court. She have received the notice dated 05.01.2022 u/s 160 Cr.P.C. to present on 06.01.2022 in FIR No. 289 dated 19.04.2021 u/s 323, 427, 420, 452, 467, 468, 471, 506 and 120-B of IPC Police Station, City Narnaul. I have understand the facts of the case and seen the agreement dated 23.01.2013 placed on the file. This agreement was neither written in my presence nor prepared by me and she have no knowledge regarding this agreement. I have seen the photocopy of the agreement on which my signature has been shown. The writing on the agreement is not written by me which not having my signature, in this regard

only the beneficiary can tell or can be tell by executants. She have no knowledge about the allegations mentioned in the above noted case and she have not committed any kind of quarrel with Vijay Goshwami and his family member and she have not visited his house at any point of time. She did not meet with Vijay Goshwami regarding this agreement and she have no any kind of converstation with him. I know Ashwani Kumar, being an advocate. I have recorded my statement, heard and admitted to be correct.”

14. After having heard and considering the factual aspects as discussed above, one thing has become crystal clear that the only dispute qua the agreement is with regard to the signatures of Advocate Pragya Sharma. According to the complainant, those signatures were forged by the present petitioner whereas this aspect has been denied specifically and the petitioner has tried to justify the signatures of Advocate Pragya Sharma. Ms. Pragya Sharma has also been arrayed as an co-accused along with the petitioner and her statement has been recorded and reproduced in the earlier paragraph. She has denied to have appended her signatures or written anything on the agreement dated 23.01.2013.

15. From the sequence of events narrated above, it would be emerged that the dispute is only with regard to the signatures of Advocate Pragya Sharma and this fact can be verified by the Investigating Agency from the report of handwriting and finger print expert and for that purpose, the custodial interrogation of the petitioner is not required as the case is entirely based upon documentary evidence. Otherwise also, civil suit seeking the specific performance of the aforesaid agreement is already admittedly pending and the parties

would be having the full opportunities to prove their allegations and counter allegations therein also.

16. In view of the above, the present petition is disposed of with a direction to the petitioner to join the investigation and the petitioner shall remain present as and when called for and in the event of arrest, the petitioner shall be admitted to bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer subject to the adherence of the conditions as specified under Section 438(2) Cr.P.C.

20th January, 2022
kavneet singh

(SANT PARKASH)
JUDGE

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