

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-50513-2022 (O & M)****Date of decision: 14.12.2022**

Mohinder Singh @ Bau @ Bau Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Bikramjit Aroura, 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 regular bail to the petitioner in case FIR No.272 dated 04.09.2022 under Sections 420/465/467/471/120-B IPC registered at Police Station Civil Lines, Amritsar.

2. The present FIR came to be registered on the basis of a complaint of Sukhdev Singh against Gujinder Kumar, Mahinder Singh, Ramesh Kumar, Satnam Singh, Jagjit Singh, Balkirat Singh, Karnail Singh-Numberdar, Anil Kumar Sharma-Wasika Nawis, Harwinder Singh-Patwari, Dhaman Singh-Halqa Girdawar, P.P. Singh Goraya-Sub Registrar and Manjit Singh-Tehsildar. As per the contents of the application, Late Piare Lal Bhagat was a retired PCS Officer and an owner of Kothi No.401, situated at Abadi Basant Avenue, Amritsar, alongwith other properties including agricultural land in village Talabpur. Ram Piari was the widow of Late Piare Lal Bhagat, though, another woman-Sunila Kumari also claimed to be his widow. After the death of Piare Lal Bhagat, Ram Piari filed a civil suit in

the year,1987 to acquire the property left by Piare Lal Bhagat and the matter was pending in Court. An agreement to sell dated 01.01.1997 was executed by Ram Piari with the complainant for a sum of Rs.12 lacs of which she had received a sum of Rs.8 lacs as earnest money. When she (Ram Piari) did not execute the sale deed, the complainant filed a civil suit, which was partly decreed by the Court of the Additional Civil Judge (Sr. Division), Amritsar on 12.01.2010. An appeal was preferred which was decided in favour of the complainant on 11.04.2011. Based on an execution filed by him, a sale deed was executed in his favour on 05.10.2011 after making the payment of the remaining amount. The sale deed was registered by Sub Registrar, Goraya. Ram Piari also executed a Special Power of Attorney in his favour on 25.09.1989 and executed another Power of Attorney in his favour on 15.07.1991. Thereafter, accused-Satnam Singh fraudulently prepared a false and fabricated Will dated 12.04.1986 (purportedly executed by Piare Lal Bhagat) in his favour with the connivance of Karnail Singh-Numberdar and Balkirat Singh. The said forged Will was registered under Section 40 of the Registration Act on 03.09.2019 in connivance with P.P.S. Goraya, Balkirat Singh and Jagjit Singh. In the same way, Gujinder Kumar in connivance with Mahinder Singh, Ramesh Kumar, Anil Kumar Sharma-Wasika Nawis got prepared a forged Will dated 03.07.2010 purportedly executed by Ram Piari and got the same registered on 09.10.2019. On this Will, the signatures of the deceased Ram Piari were forged. The accused in connivance with the Patwari and Kanungo fraudulently registered the ancestral mutation No.22461 of Piare Lal Bhagat and ancestral mutation No.22464 of Ram Piari in favour of accused-Gujinder Kumar, which was earlier rejected and thereafter in an illegal manner got entered the mutationNo.22638 and 22639

4. The learned counsel for the petitioner contends that the allegations against the petitioner-Mohinder Singh that he connived with Gujinder Kumar, Ramesh Kumar, Anil Kumar Sharma-document writer and got prepared a forged Will dated 03.07.2010 is incorrect. Taking the allegations to be true, the petitioner is only an attesting witness and not a beneficiary of the Will dated 03.07.2010 executed by Ram Piari in favour of Gujinder Kumar. There were pending civil disputes regarding the inheritance of Piare Lal Bhagat between the first wife-Ram Piari and the alleged second wife-Sunila Kumari. He contends that the petitioner is in custody since 13.09.2022. None of the 14 prosecution witnesses have been examined and since the case is triable by the Court of a Magistrate and the petitioner is a first-time offender, the further incarceration of the petitioner is not required.

5. The learned counsel for the State, on the other hand, contends that the seriousness of the allegations do not entitle the petitioner to the grant of bail. He, however, does not dispute the period of custody as also the stage of the Trial.

6. The learned counsel for the complainant submits that the petitioner was not entitled to the grant of bail as the petitioner being an attesting witness, identified Gujinder Kumar in the Will dated 03.07.2010 executed by Ram Piari in favour of Gujinder Kumar. He contends that merely because civil disputes were pending between various parties, was not reason enough to grant the petitioner the concession of bail.

7. I have heard the learned counsel for the parties.

8. Admittedly, the petitioner is a witness to a Will purportedly executed by Ram Piari in favour of Gujinder Kumar. Whether the petitioner

He is a first-time offender. He is in custody since 13.09.2022 and none of the 14 prosecution witnesses has been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is not required.

9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Mohinder Singh @ Bau @ Bau Singh Ajay Kumar @ Sajan Teela, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

11. In addition, the petitioner (or someone else on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

December 14, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No