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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 24.05.2023

Karan Datta

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vikas Bali, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.128, dated 15.03.2023, registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 at Police Station Model Town, District Rewari (Annexure P-1).

2. On 13.04.2023 the following order was passed by this Court :-

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The present application is filed for placing on record the additional facts and the documents marked as Annexures P-30 to P-34.

For the reasons mentioned in the application, the same is allowed and Annexures P-30 to P-34 are taken on record,

subject to all just exceptions.

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The petitioner has filed the present petition under section 438 of Cr.P.C seeking grant of anticipatory bail in case FIR No.128 (Annexure P1), dated 15.03.2023, registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, at Police Station Model Town, District Rewari.

Succinctly, the abovesaid case FIR has been registered on the basis of a letter dated 17.02.2023 received from Tehsildar, Rewari in respect of a Will bearing Vasika No. 6103 dated 14.03.2017 along with another letter dated 31.01.2023 of Deputy Commissioner, Rewari regarding registration of the FIR against Smt. Sunanda Dutta and Karan Dutta (present petitioner), wherein, it was alleged that on the basis of a forged Will, Smt. Sunanda Dutta had shown herself to be the owner of the property in question and, thereafter, illegally transferred the said property in favour of her son, Karan Dutta (petitioner).

From the FIR, it is borne out that some land was purchased by Smt. Shanti Dutta on 18.07.1963 and subsequently on 04.08.1987 one Harigyan Education Society (Shishushala School, Model Town, Rewari) was formed and school at the said place was started under the aforesaid Harigyan Education Society. The land is stated to be allocated No. 318 Model Town, Rewari measuring 4000 square yards. As per the FIR, Mrs. Shanti Dutta executed a will dated 27.03.2001 bearing Vasika No. 3702, whereby a residential house having area of 375 square yards situated within the premises of Shishushala School, Model Town, Rewari was bequeathed in favour of Smt. Sunanda Dutta w/o Subhash Dutta. It is stated that as per the Will dated 27.03.2001, Smt. Sunanda Dutta had the right and title of only 375 square yards of land, however, she transferred the immovable property of 4000 square yards in the name of her son Karan Dutta (petitioner). It is alleged that Smt. Sunanda Dutta did not have any ownership of 4000 square

yards of land and the said property was transferred on the basis of a property tax receipt by the Municipal Council, Rewari which is not a proof of ownership.

It appears that a recommendation was made regarding cancellation of the transfer deed bearing Vasika No. 6103 dated 14.03.2017 and also to take further action. Accordingly, the aforesaid case FIR has been registered.

Learned Senior counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He submits that the property was originally purchased by one Kumari Shanti Dutta d/o Lt. Sh. Harikishan Lal Dutta in an open auction in the year 1963, whereupon, she constructed a school building and a school namely Shishushala School was started thereon. Subsequently, Kumari Shanti Dutta formed a society namely Harigyan Education Society which was registered on 04.08.1987 and as per the constitution (Annexure P-2) of the society, Kumari Shanti Dutta and her sister Kumari Chander Dutta were the Treasurer and Secretary in the said society and Kumari Chander Dutta was also the Principal. It is submitted that Kumari Shanti Dutta expired on 31.05.1992 and she was unmarried. Upon demise of Kumari Shanti Dutta, the management of the school is stated to have come under Kumari Chander Dutta. It is stated that Kumari Chander Dutta had also obtained a succession certificate vide order dated 27.09.1994 passed by the Court of Senior SubJudge, Rewari in succession case No.9/22.02.1993. It is further stated that Kumari Chander Dutta during her lifetime appointed her nephew's wife namely Smt. Sunanda Dutta @ Veena Dutta w/o Subhash Chander Dutta as the Principal-cum-Manager and Supervisor of the schools run by the society i.e Shishushala High School at Model Town, Rewari and Shishushala Public School, Sector 3, Rewari. It is contended that, Smt. Chander Dutta also executed a registered will (Annexure P-8), dated 27.03.2001 in favour of Smt. Sunanda Dutta (Mother of the petitioner) bequeathing all

her movable and immovable property in her favour and since then the mother of the petitioner was living in the house of Smt. Chander Dutta along with her. Kumari Chander Dutta is stated to have expired on 10.07.2002 and thereafter, Smt. Sunanda Dutta had been running and managing the Schools under the society, however, certain alleged members of the Trust namely “Kumari Shanti Dutta Memorial and Educational Trust” instituted as civil suit seeking declaration that Smt. Sunanda Dutta had no right, title or interest over any of the accounts of the Shishushal School situated at Model Town, Rewari or over the funds of Kumari Shanti Dutta and also sought decree for permanent injunction. The said suit is stated to have been dismissed vide judgment and decree dated 29.03.2017, however, an appeal was filed against the same after a delay of 81 days. The delay was condoned, accordingly one Civil Revision No. 2982 of 2021 has been filed before this Court, wherein, the passing of final order in the appeal is stated to have been stayed vide order dated 26.11.2021(Annexure P-11).

Learned Senior counsel for the petitioner submits that Sunanda Dutta (mother of present petitioner) being the rightful owner of the property in question on the basis of the Will executed by Smt. Chander Dutta had further transferred the same in favour of her son i.e. the present petitioner by way of registered transfer deed dated 14.03.2017. Learned Senior counsel has referred to Annexure P-33 which is an application filed under the Right to Information Act, 2005 seeking information regarding the property in question and also Annexure P-34 which is the reply to the application under the Right to Information Act, wherein, it is stated that plot No.318 Model Town, Rewari was auctioned on 18.07.1963 for a sum of Rs.16,001/- in favour of Smt. Shanti Devi and the area of the said plot No.318 was 36000 square feet and there was no record that the said plot was sold for any business/institution etc. As per the said Annexure P-34, the auction amount of plot No.318

stood deposited and clearance certificate stood issue for the said plot.

Learned Senior counsel has submitted that the complainant has no locus standi in respect of the plot/property in question and the petitioner is ready and willing to join the investigation and to abide by any condition that may be imposed by this Court or by the trial Court, accordingly prayer for grant of anticipatory bail to the petitioner is made.

Per contra, learned counsel appearing on behalf of the State as well as the complainant opposes the petitioner's plea for anticipatory bail; however, learned State counsel seeks time to get complete instructions in this matter.

Learned counsel for the complainant also seeks time to file a detailed reply.

List on 24.05.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/ Arresting Officer. However, he shall join the investigation as and when directed by the Investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C."

3. Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.
4. Learned State counsel on instructions from ASI Sube Singh has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.
5. No one has come present on behalf of the complainant despite second call.
6. Heard learned counsel for the parties.
7. Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is

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allowed and the ad-interim order dated 13.04.2023 passed by this Court is made absolute.

8. However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

9. It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

10. Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

11. The petition is accordingly disposed of.

24.05.2023
Himani

(HARSH BUNGER)
JUDGE

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