

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CRM-M-25064-2023 (O&M)
Date of decision: 09.06.2023

DARSHAN SINGH

...PETITIONER(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Arjun Kapur, Advocate
for the petitioner.

Ms. Himani Arora, AAG Punjab.

GURBIR SINGH, J. (ORAL)

CRM-26335-2023

This is an application under Section 482 of Cr.P.C. for placing on record certain documents Annexures P-7 to P-12.

Copy of application along with copies of annexures supplied to other party.

In view of the averments made in the application, the same is allowed. Annexures P-7 to P-12 are taken on record.

Documents be tagged in the main file at the appropriate place.

CRM-M-25064-2023

The prayer in this petition filed under Section 438 of Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.73 dated 25.04.2023 (Annexure P-1) under Sections 406 and 420 of IPC registered at Police Station, Sadar, Samana, District Patiala.

Mr. Ramandeep Advocate has appeared and filed his *vakalatnama*

on behalf of complainant in the Court and the same is taken on record.

The case in question was registered at the instance of Kaur Singh-complainant. As per allegations, on 20.05.2021, he went to his land in native village Kadrabad, Tehsil Samana which was leased to his nephew Darshan Singh son of Karnail Singh who took him to his house and asked him to stay with them for 1-2 days, but he was not aware that his nephew had an evil mind and he gave beatings to him. He was intimidated with threats and was kept away from his family including his wife and son. He was coerced into signing several papers regarding which he had no knowledge. His nephew was always accompanied by 2-4 armed men most probably of village Kadrabad. They under threats took him to the bank several times and also to the Tehsil. Thereafter, he came to know that his share of land was forcibly got transferred by him. On his protest, Darshan Singh threatened to kill him and his son and he prepared his insulting video and started blackmailing him. Many times, he tried to meet the Bank Manager, Samana and Tehsildar Sahib but he was not allowed to go out of the house. A week ago, on his asking about the accounts, he was beaten up by his nephew and his clothes were also torn. He managed to inform his son about his situation on the phone. He could with great difficulty, came to Gurdwara Sahib where his family members had come and they brought him in his house. After conducting inquiry, FIR was registered.

Learned counsel for the petitioner has argued that complainant is the real uncle of the petitioner. He was having 3 acres of land which was given to petitioner on lease. Harpreet Singh, Kushpal Singh and Rameshwar Singh gave beatings to the complainant and detained him illegally. On 20.05.2021, complainant came to the petitioner for shelter and for protection

of his life. The complainant appeared before DSP Samana as well as SHO Police Station Sadar, Samana and told entire story to him including that his ornaments, documents etc were snatched from him. He also filed a complaint (Annexure P-2). Thereafter, the complainant started living with the petitioner for about one and half year. After a gap of one month, a missing complaint was filed by Harpreet Singh at Police Station Urban Estate, District Patiala. A DDR No.05 dated 22.06.2021 was recorded. Assistant Sub Inspector visited Village Kadrabad, Tehsil Samana and statement of complainant was recorded that he was living with his own will with the petitioner. The Police recorded the proceeding on the DDR (Annexure P-3). The complainant himself transferred the land for consideration in the name of the petitioner because his family members were threatening the complainant to transfer the said land in the name of Harpreet Singh, son of complainant. A sale deed dated 16.06.2021 was executed by the complainant without any coercion. Copy of the same is annexed with Annexure P-4. Since the complainant was apprehending danger to his life from his own family members so complainant himself got account in the bank linked with the mobile number of the petitioner. The petitioner had transferred amount of Rs.33 lacs in the account of complainant on various dates as per the sale consideration mentioned in the sale deed dated 16.06.2021 (Annexure P-4). On 10.02.2022 the complainant has also sworn the affidavit copy of which is Annexure P-12 that he has sold the land in the name of petitioner-Darshan Singh and received a sum of Rs.33 lacs for the same. Earlier on 24.06.2021, complainant filed the Civil Suit (Annexure P-8) against his son, brother-in-law and others including SHO PS Civil Lines as well as ASI Kuldeep Singh for permanent injunction restraining the defendants i.e., his own family

members from harassing him and from detaining him illegally and forcibly. The police filed a written statement along with the report dated 09.08.2021 (Annexure P-9).

Complainant also sent complaint to Incharge Chowki Officer District Patiala dated 22.06.2021 (Annexure P-3) that he was living in the house of the petitioner. The complainant had sold the property with his own free will for consideration now he is conniving with his son and got the FIR registered on wrong facts.

From the entire documents, it is established that petitioner transferred the land with his own free will and later on he became dishonest and has got the case registered in connivance with his son and family members. The petitioner is ready to join investigation.

The complainant filed a civil suit (Annexure P-5) for declaration before the learned Civil Judge, Samana against the petitioner challenging the sale deed dated 16.06.2021 after a gap of almost 1.5 years and during this period he had never moved any complaint against the petitioner to any authority.

Status report by way of an affidavit of Sukhamrit Singh Randhawa, PPS, Deputy Superintendent of Police, Detective, Patiala, having additional charge of Deputy Superintendent of Police, Sub Division Samana, District Patiala on behalf of the respondent-State has been filed today in the Court and the same is taken on record. A copy thereof has been supplied to the counsel opposite.

Learned counsel for the State and complainant have submitted that it is clear case of cheating. 3 acres of land of the petitioner was got transferred by playing fraud. The complainant did not get any money and

his land is also taken away. The complainant was kept in illegal confinement. The amount of the petitioner was withdrawn and he is not having property in his hand and amount in his bank was also withdrawn or got transferred. The Civil suit (Annexure P-2) was withdrawn by making the statement. The said civil suit was got filed by his nephew by concealing the facts that he had threats from his family members. The value of the land in the said area is more than 30 lacs per acre but sale deed is of Rs.33 lacs for 3 acres. Thereafter sum of Rs. 22 lacs was withdrawn from the account of the petitioner and sum of Rs.10,95,000/- was transferred from the bank of the complainant to his brother Jagmail Singh, to his son Jaswinder Singh, to his Uncle's son Satgur Singh and to Bhagwan Singh son of Jagar Singh. Custodial interrogation of the petitioner is necessary and prayer is made for dismissal of the petition.

Heard.

Para No.5 of the status report is reproduced below for reference:-

“That during investigation, from the documentary evidence produced by the complainant, it has transpired that the petitioner got opened a bank account of complainant Kaur Singh in Punjab National Bank, in which, the petitioner got entered his mobile number in a clandestine manner and also became nominee in the bank account. Further, the petitioner got executed sale deed of land of complainant at cheaper price in his name for a sum of Rs.33,00,000/-. Thereafter, the petitioner withdrew an amount of Rs.22 Lakh from the account of complainant Kaur Singh and the petitioner also transferred Rs.10,95,000/- from the bank account of the complainant to his brother Jagmail Singh, to his son Jaswinder Singh, to his uncle's son

Satgur Singh as well as Bhagwan Singh son of Jagar Singh.”

The allegations against the petitioner are very serious. The complainant started residing with the petitioner being his nephew after being upset with his son and other family members but that did not give any right to the petitioner to get his land transferred in his name. Out of the total consideration, sum of Rs.10,95,000/- is apparently transferred from the account of the complainant to accounts of the brother, sons and other persons. Why such a huge amount would be transferred by an old man? Sum of Rs.22 lacs is also withdrawn from his account on different dates. Why person would withdraw such amount when he is not residing in his own house and is at the mercy of his nephew in whose favour he had transferred the 3 acres of his land? The complainant has already challenged the sale deed. Immediately on release from the influence of petitioner, complainant filed the civil suit and challenged the sale deed. It is not a simple case of executing the sale deed than resiling from it. It is a case, where custodial interrogation of the petitioner is required to bring truth on the file. When a person is equipped with the favourable order of grant of anticipatory bail then interrogation becomes a mere ritual.

Without discussing the merits of the case, anticipatory bail cannot be granted to the petitioner and the present petition stands dismissed.

(GURBIR SINGH)
JUDGE

09.06.2023
Kusum

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No