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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-31503-2022 (O&M)

Date of Decision: 25.05.2023

Gian Pal Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mansur Ali, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A.G., 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.0228, dated 31.05.2022, registered under Sections 323, 325, 452, 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Chand Hut, District Palwal (Annexure P-3).

2. On 02.03.2023 the following order was passed by this Court :-

“Present petition under Section 438 of the Code of Criminal Procedure is filed seeking grant of anticipatory bail to the petitioner in case FIR No.228 dated 31.05.2022 (Annexure P-3), under Sections 323, 325, 452 and 506 of the Indian Penal Code read with Section 34 of the Indian Penal Code, registered at Police Station Chand Hut, District Palwal.

On 22.07.2022, following order was passed by a co-ordinate Bench of this Court:-

“Learned counsel for the petitioner submitted that the mater basically is more or less civil in nature pertaining to possession over joint property. Learned

counsel submitted that his client shall make earnest efforts for resolving the matter amicably.

Notice of motion for 6.9.2022.

The parties are directed to appear before Mediation and Conciliation Center at Palwal on 8.8.2022 at 10:00 A.M.

The Secretary, District Legal Services Authority, Palwal shall do the needful for referring the parties to some seasoned Mediator.

Meanwhile, the petitioner be not arrested.”

In pursuance of the said order dated 22.07.2022, the Mediation report from the Chief Judicial Magistrate-cum-Secretary District Legal Services Authority-cum-Nodal Officer, District Mediation and Conciliation Centre, Palwal, has been received, which is attached as Mark 'A' with the present petition. As per the said report, despite strenuous efforts put in by Sh. Malkhan Singh, Mediator, the dispute between the parties concerned could not be settled.

Learned counsel for the petitioner submits that the petitioner, who is about 66 years of age, has been falsely implicated in the present case at the behest of complainant, namely Hansraj, only on account of a civil dispute which is going on between the parties, regarding which a suit for permanent injunction (Annexure P-1), filed by the petitioner against the co-sharers, is also pending before the trial Court. It is further submitted that there is a joint non-partitioned ancestral land of the petitioner's family in question, out of which, 51 marlas of the land was sold by brother of petitioner, namely Manoj s/o Suraj Mal, to complainant's mother, namely Inderwati, and the same was done without partition and during the pendency of suit for permanent injunction (Annexure P-1). Though, no specific portion was sold to the complainant's mother by petitioner's brother – Manoj and it was simply stated in the sale deed that 2 kanals 11 marlas were sold to Inderwati

(mother of complainant), however the complainant, on his own, illegally tried to start construction on the portion of land, which touches the main road and is a valuable piece of land, in order to circumvent the partition proceedings. Subsequently, the said construction was stopped by the complainant. Learned counsel contends that the instant matter is primarily civil in nature and there is no other case pending against the petitioner. It is submitted that the alleged date of occurrence is 26.05.2022 but the FIR was registered on 31.05.2022. It is stated that the anticipatory bail application moved by the petitioner before the Court of Additional Sessions Judge, Palwal, has wrongly been dismissed, vide order dated 05.07.2022 (Annexure P-5). Learned counsel submits that the petitioner is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

At this stage, Mr. Nafeesh Ahmed, Advocate appears and files Vakalatnama on behalf of the complainant in Court today, which is taken on record, subject to all just exceptions. He opposes the prayer of petitioner for grant of anticipatory bail.

Learned State counsel also opposes the plea of petitioner on the ground of seriousness of the offences. However, he prays for an accommodation to seek instructions and assist the Court in this matter.

List on 25.05.2023.

In the meanwhile, in the event of arrest of 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) of the Code of Criminal Procedure.”

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 Head Constable

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Rajkumar 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. Heard learned counsel for the parties.
6. Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 02.03.2023 passed by this Court is made absolute.
7. 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.
8. 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.
9. 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.
10. The petition is accordingly disposed of.
11. Pending Application(s), if any, shall stands closed.

25.05.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No