

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-37217-2022 (O&M)

Date of decision: 20.04.2023

SUNIL THOMAS

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. S.S. Sidhu, Advocate for the petitioner.

Mr. IPS Sabharwal, DAG Punjab.

Mr. Prateek Pandit, Advocate for the complainant.

AMAN CHAUDHARY. J.

CRM-6180-2023

For the reasons mentioned in the application, same is allowed.

Annexures R-1 to R-7 are taken on record, subject to all just exceptions.

CRM-M-37217-2022

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.72 dated 11.06.2022, under Section 420 of the Indian Penal Code, 1860 registered at Police Station Dugri, Police Commissionerate, District Ludhiana.

On 13.12.2022, this Court had passed the following order:-

“ XX XX XX XX

The present petition has been filed under Section 438 Cr.P.C. for issuance of directions to SHO/I.O./ Arresting Officer to release the petitioner on bail in the event of his arrest in case FIR No.72 dated 11.06.2022, registered under Section 420 IPC at Police Station Dugri, District Police Commissionerate, Ludhiana.

Learned counsel inter alia contends that the petitioner is

in possession of 900 square yards plot since last 30 years on account of the same having devolved upon him by way of inheritance as well as by way of an agreement dated 09.09.2015 with one Harbans Singh, Annexure A-9.

In order to prove the possession, the petitioner has placed reliance on the electricity bills, ration card etc. having the details of the property and Vikas Kumar who is also the nephew of the petitioner is residing in a part of the same property and who has given an affidavit that there was no agreement to sell as no amount was paid to the petitioner by him and the complainant. The property also does not belong to the Improvement Trust as per their letter dated 19.10.2021, which has come out during the course of investigation of the said FIR. It is his further submission that the alleged agreement to sell dated 02.01.2021, Annexure P-2 does not disclose any details of the property in question or regarding the payment that was allegedly made by the complainant to the petitioner. It has in fact a recital that in case the said property has to be taken back by the seller i.e. the petitioner, he has to make a payment of Rs.18,000/- per square yard. He submits that the aforesaid document was also fraudulently got made by the complainant by stating that it was for the purpose of furnishing bail bonds in the Court for a friend of his. The petitioner has been a godfather to the complainant and has virtually brought him up but only on account of greed that the complainant has lodged the FIR against him. However, still it is the case of the petitioner that he has no objection in case complainant wants to also reside within 250 sq yards of the said property. Though the names of various persons have been mentioned in the alleged agreement to sell namely, Rajiv Kumar, Parminder Singh and Vikas Kumar, however, it is his case that none of them were associated by the investigating agency during the course of inquiry. The alleged agreement to sell is dated 02.01.2021, the complaint filed by the complainant is dated 28.06.2021 but the FIR was registered on 11.06.2022. He further submits that petitioner is ready and willing to join and co-operate with the investigation.

Notice of motion for 08.02.2023.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab accepts notice on behalf of respondent-State and Ms. Lavanya Gupta, Advocate accepts notice on behalf of the complainant.

Meanwhile, the petitioner is directed to join the investigation on or before 20.12.2022. In the event of arrest of the petitioner, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that in pursuance of order dated 13.12.2022, of this Court, the petitioner has not only joined investigation but has also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

Learned State counsel on instructions from ASI Baldev Singh affirms the factum of joining the investigation by the petitioner and cooperating with the investigation agency. He also submits that at this stage, the petitioner is not required for further custodial interrogation.

In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 13.12.2022 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

However, it is made clear that if the petitioner fails to join and cooperate with the investigation agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

April 20, 2023

M.Kamra

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