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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision:01.05.2023

Veer Singh and anr.

..... Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.K. Singla, Advocate,
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioners in case FIR No.310 dated 9.11.2020 under Sections 420, 120-B, 506, 465, 467, 468 and 471 IPC registered at Police Station Shahkot, District Jalandhar.

2. The instant FIR came to be registered on the basis of a complaint of one Paramjit Singh son of Santokh Singh who stated that he had purchased 6 Kanal 1 Marla land from Mohinder Singh son of Rakha Singh vide sale deed dated 15.06.2020 and a mutation had also been sanctioned in his favour. He was in cultivating possession of the said land. However, accused Veer Singh (petitioner No.1) son of Mohan Singh, Harwinder Singh son of Bir Singh and Gurpreet Singh @ Gopi son of Bir Singh prepared a forged and fabricated agreement of lease (Pattanama) and on the basis of the said document, filed a civil suit against him

SUKHPREET KAUR (complainant). The said agreement of lease contained the forged and
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I attest to the accuracy and
integrity of this document

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fabricated of Mohinder Singh, the owner of the land. Thereafter, the accused including the petitioner attempted to forcibly occupy his (complainant's) land. Legal action was, therefore, sought against Veer Singh (petitioner No.1), Harwinder Singh (petitioner No.2 whose anticipatory bail stands confirmed vide order dated 08.12.2022), Gurpreet Singh @ Gopi their companion for preparing a forged and fabricated lease deed dated 15.05.2019.

3. The petitioner had filed the instant petition for the grant of anticipatory bail.

4. Initially, the arrest of the petitioner No.1 and his co-accused Harwinder Singh (petitioner No.2) was stayed vide order dated 04.12.2020. Thereafter, a reply dated 23.03.2021 by way of affidavit of Davinder Singh (PPS), Deputy Superintendent of Police, Sub Division Shahkot, Jalandhar came to be filed on 24.11.2021.

5. Pursuant thereto, on 29.08.2022, the petitioners were directed to join the investigation.

6. On 08.12.2022, whereas the anticipatory bail granted to the petitioner No.2-Harwinder Singh was confirmed, the petitioner No.1 was granted one more opportunity to join investigation and co-operate with the same. The aforesaid order is reproduced hereinbelow:-

“Through the instant petition, the petitioners seek anticipatory bail in case bearing FIR No. 310 dated 09.11.2020, registered under Sections 420, 120-B, 506, 465, 467, 468, 471 IPC at Police Station Shahkot, District Jalandhar.

Vide order dated 28.09.2022, ad interim anticipatory bail was granted to the petitioners.

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Learned counsel for the petitioners submits that pursuant to the aforesaid order dated 28.09.2022, the petitioners have joined the investigation.

Learned State counsel, on instructions from ASI Harnek Singh, submits that petitioner No.2 has joined the investigation and is not required for any further investigation, but petitioner No.1 has though joined but not cooperating with the investigating agency.

Learned counsel for the petitioners prays for one opportunity to petitioner No.1 to do the needful.

I have heard the learned counsel for the parties.

In view of the above, without commenting on the merits of the case, the order dated 28.09.2022 granting ad interim anticipatory bail to the petitioners is made absolute qua petitioner No.2 only at this stage, subject to the conditions envisaged in Section 438 (2) of the Code of Criminal Procedure.

The request of the learned counsel for the petitioner is allowed.

The petitioner No. 1 is directed to again join the investigation within 15 days or any other date convenient to the investigating officer.

Adjourned to 02.03.2023.

Interim order to continue”.

7. The learned counsel for the petitioners contends that petitioner No.1 has been falsely implicated in the present case. In fact, the lease deed in question had been prepared by Mohinder Singh son of Rakha Singh in his (complainant's) favour on 15.05.2019 and for reasons best known to the investigating agency, Mohinder Singh has not been made as an accused. The original of the said document was lying with Mohinder Singh and not with

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and the petitioner No.1 had already joined investigation, no case for custodial interrogation was made out and therefore, the *ad interim* bail be confirmed.

8. The learned counsel for the State, on the other hand, while referring to the reply dated 23.03.2021 contends that the petitioner No.1 alongwith his co-accused prepared a forged lease deed/agreement/Pattanama of the land in question after forging the signatures of Mohinder Singh. The lease deed in question had been prepared on plain paper instead of a Stamp paper and the date was affixed as 15.05.2019. It was an unregistered lease deed on the basis of which the petitioner No.1-Veer Singh had filed a civil suit No.CS/292/2020 titled as 'Veer Singh versus Paramjit Singh' in the Court of Additional Civil Judge, Senior Division, Nakodar, vide which the petitioner No.1 had obtained a stay order. Interestingly, the owner of the land i.e. Mohinder Singh who had purportedly executed the lease deed had not been made a party to the suit. It was in such a situation that the complainant had approached the investigating agency which after enquiring into the matter, registered the FIR in question against the petitioner and his co-accused. He contends that the statements of various witnesses including Mohinder Singh were recorded on 01.09.2020, 18.10.2020, 18.11.2020 and 05.01.2021 in which he stated that he had neither given the said land on lease to petitioner No.1 nor had he executed any lease deed. In fact, the said document had been prepared by the accused and was clearly a false and forged document to grab his (complainant's) land.

He further contends that though the petitioner had joined investigation, the original document had not been got recovered and the

same was required for the purpose of examination by the Forensic Science

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Laboratory. He, therefore, contends that since the petitioner had not co-operated with the investigation by providing the original document, his custodial interrogation was certainly needed. Even otherwise, the allegations against petitioner No.1 were grave and there was a *prima facie* case against him, therefore, he was not entitled to the grant of the anticipatory bail.

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

10. The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***', held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its

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discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

11. In the instant case, the allegations against the petitioner and his co-accused are that in order to dispossess the complainant of the land in question and to involve him in an unnecessary litigation regarding the property purchased by him (complainant) from Mohinder Singh, they (accused) prepared a false lease deed/Pattanama (Annexure P-5) purportedly

dated 15.05.2019 and filed a civil suit against the complainant in which an

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interim order was obtained. The statement of the original owner of the land Mohinder Singh, who purportedly executed the Pattanama in favour of Veer Singh-petitioner No.1 was recorded alongwith other witnesses during the course of investigation wherein he had categorically stated that he had not got prepared the said document or executed any lease deed in favour of the petitioner No.1. Thus, it is established beyond doubt that the document in question has been created by the petitioner No.1 and his co-accused so as to dispossess the complainant from the land in question. Despite the fact that the petitioner was granted the concession of interim anticipatory bail, he has chosen not to get recovered the original of the said document which was required for Forensic analysis. Therefore, the petitioner has not co-operated with the investigation.

12. In the instant case, not only are the allegations against the petitioner No.1 grave and *prima facie* established but he has also not co-operated with the investigating agency. Therefore, he is certainly not entitled to the grant of concession of anticipatory bail. Thus, I find no merit in the present petition and the same is dismissed.

13. However, it is made clear that the observations made in this order are only for the purposes of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

May 01, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No