

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

CRM-M-52470 of 2021 (O&M)
Date of Decision: 18.01.2023

HARDEV SINGH AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kartar Singh, Advocate
for the petitioners.

Mr. Vinay Kumar Gupta, A.A.G., Punjab.

Mr. KeshavPartap Singh, Advocate
for respondent No.2/complainant.

HARSH BUNGER, J.

Petitioners have filed this petition under Section 438 Cr.P.C. seeking grant of anticipatory bail in case FIR No.310 dated 22.11.2021 (Annexure P-1) under Sections 420 and 201 of the Indian Penal Code, registered at Police Station Jandiala, Amritsar.

Shorn of unnecessary details, the brief facts are that the above-said FIR has been got registered by complainant namely, Harjinder Singh son of Raghbir Singh, who is none other but the brother of the present petitioners namely, Hardev Singh son of Raghbir Singh and Parwinder Kaur daughter of Raghbir Singh. The allegations in the FIR are that the petitioners herein along with one Mandeep Singh son of Hardev Singh and other companions have prepared a fake Will of Surjeet Singh (since deceased) son

of Raghbir Singh, who was also brother of the complainant and petitioners herein. It is alleged that the Will has been prepared on the basis of fake documents in favour of Mandeep Singh son of Hardev Singh, for grabbing the property situated at Village Akalgarh Dhappian, Police Station Jandiala, Mehta Road, Amritsar. It is further alleged that Surjeet Singh (since deceased), who was brother of the complainant, expired on 06.09.2020. It is stated in the FIR that Surjeet Singh was married to one Kulwinder Kaur daughter of Piara Singh, however, no child was born out of the said wedlock and both Surjeet Singh and Kulwinder Kaur, used to reside with complainant-Harjinder Singh. It is further stated that Surjeet Singh and Kulwinder Kaur were being looked after by Hargunad Singh and Simran Kaur i.e. nephew and niece of the complainant. It is also stated that petitioner No.2 namely, Parwinder Kaur was married to one Surjeet Singh in the year 1987, however, after the death of her husband, Parwinder Kaur, has been residing with petitioner No.1-Hardev Singh and Mandeep Singh (beneficiary of the Will), at Amritsar since 1993. It is stated that Kulwinder Kaur wife of Surjeet Singh had died on 01.04.2020. It is alleged that on 01.07.2020, Mandeep Singh and Hardev Singh, pressurized Surjeet Singh (since deceased) to transfer his property in their names and also used abusive language, however, no action was taken then due to ill health of Surjeet Singh. It is alleged in the FIR that the health of Surjeet Singh got deteriorated and he expired on 06.09.2020 without any prior Will. It is alleged that the accused i.e. the petitioners and Mandeep Singh, in connivance with each other prepared a fake Will by putting fake signatures of Surjeet Singh. It is alleged that the Will is in favour of Mandeep Singh (son of petitioner No.1) wherein, petitioner No.1-Hardev Singh and

petitioner No.2-Parwinder Kaur have signed as witnesses and there is no independent witness to the said Will. It is further alleged that the thumb impression of Surjeet Singh (since deceased) had not been affixed on the fake Will, which indicates that the same has been executed after his death. It is also alleged that Surjeet Singh never adopted Mandeep Singh.

On the basis of allegations made in the complaint submitted by the complainant-Harjinder Singh, FIR No.310 dated 22.11.2021 under Sections 420 and 201 of the Indian Penal Code, was registered at Police Station Jandiala, Amritsar.

The petitioners, thereafter, applied for anticipatory bail, however, the same was dismissed vide order dated 03.12.2021 passed by the Additional Sessions Judge, Amritsar. Accordingly, the present petition was filed before this Court.

Learned counsel for the petitioners has submitted that it is a purely civil dispute, which has been given a colour of criminal nature. It is submitted that on the basis of Will of Surjeet Singh (since deceased), the property in question already stands mutated in favour of beneficiary Mandeep Singh vide order dated 28.04.2021 (Annexure P-3) passed by Sub Divisional Magistrate-cum-Assistant Collector Grade-1, Amritsar-1. It is submitted that subsequent to mutation proceedings, the complainant-Harjinder Singh had also instituted a Civil Suit, which is pending adjudication before the Court of Civil Judge (Junior Division), Amritsar, wherein, alienation of property has been restrained. It is further submitted that the petitioners are only the attesting witnesses of the Will and not the beneficiaries. Learned counsel for the petitioners submits that they are ready

and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court.

Learned counsel for the respondent-State has opposed the prayer for bail to the petitioners on the ground of seriousness of offence and has further submitted that the custodial interrogation of the petitioners is required for recovery of the alleged Will.

Learned counsel for respondent No.2-complainant has appeared and opposed the prayer for grant of anticipatory bail on the ground that co-accused Mandeep Singh was arrested on 13.12.2021 and during his custodial interrogation, he has told that the original Will has been misplaced by him. Accordingly, it is submitted that the petitioners do not deserve the concession of anticipatory bail and their custodial interrogation is required.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Concededly, the dispute in this case is regarding the alleged Will executed by Surjeet Singh (since deceased) in favour of Mandeep Singh, who is admittedly the nephew of Surjeet Singh and claimed to be adopted by Surjeet Singh. The other brothers of Surjeet Singh are objecting to the Will, *inter alia*, on the ground that Mandeep Singh was never adopted by Surjeet Singh nor Surjeet Singh has executed any alleged Will in favour of Mandeep Singh.

The dispute between the parties is pending consideration before the Civil Court and the alienation of property in question has been restrained. So far as the instant criminal proceedings are concerned, this Court vide order dated 06.01.2022 directed the petitioners to join investigation within one week and upon their doing so, in case, they were

sought to be arrested, then they shall be released on interim bail on their furnishing adequate bail and surety bonds to the satisfaction of the Arresting Officer/Duty Magistrate.

It is not disputed that pursuant to said order dated 06.01.2022, the petitioners have already joined the investigation and the said interim order has been continuing for the last one year.

Without commenting anything on the merits of the controversy, the interim bail granted to the petitioners vide order dated 06.01.2022, is made absolute.

However, the petitioners 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.

It is made clear that if the petitioners fail to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of anticipatory bail granted to the petitioners.

Present petition is accordingly disposed of.

Pending application/s, if any, shall also stand disposed of.

January 18, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No