

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59952 of 2022(O&M)

Date of Decision: 13.01.2023

Rajender Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Aditya Sanghi, Advocate
For the petitioner.**

Mr. Vishal Kashyap, AAG Haryana.

**Mr. Jaivir Yadav, Sr. Advocate with
Mr. Gaurav Jain, Advocate
For the complainant.**

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 211 dated 29.04.2022, registered under Sections 420, 458, 467, 468, 471, 506 read with Section 34 IPC at Police Station Sadar Fatehabad.

The counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case at the instance of the complainant who is aunt of the petitioner and her husband Bhalla Singh during his lifetime executed a will dated 05.08.2020 in favour of the petitioner and after the death of Bhalla Singh the petitioner has filed civil suit against the complainant based on the said will and the copy of the plaint of the civil suit is Annexure P-7 and the said suit is still pending and the validity of the will in question is going to be decided by the civil Court in

the said civil suit. The counsel for the petitioner further submits that the entire case is based on documentary evidence and the original will is already taken into its custody by the police from the civil Court and the prosecution has based its case on the basis of the report of FSL, Madhuban which is given by handwriting expert Dr. Kanta Malik whose work and conduct is already under cloud and in this regard the petitioner has also lodged complaint (Annexure P-6) with the Superintendent of Police, Fatehabad. That the said report of handwriting expert is doubtful and that is why the complainant also procured one another report in her favour from some private handwriting expert.

The counsel for the petitioner further submits that complainant lodged one complaint against the petitioner with regard to the validity of will dated 05.08.2020, with the police and in the said complaint the matter was compromised and the complainant got recorded her statement that she will accept the decision given by the civil Court where the dispute with regard to the land is pending between both the parties. At that time the complainant also informed the police that the petitioner never threatened to kill her. That on the basis of the aforesaid statement the complaint lodged by the complainant was filed vide Annexure P-4 dated 09.04.2022. The counsel for the petitioner further contends that however thereafter the complainant lodged fresh complaint under Section 156(3) Cr.P.C. before the Court concerned and on the basis of the same, the FIR in question was registered by the police.

The counsel for the petitioner further contends that co-accused Dalbir Singh, the father of the petitioner and Vijay, attesting witness of the will are

granted interim bail by this Court vide orders dated 10.11.2022 (Annexure P-8) and 30.11.2022 (Annexure P-9). The counsel for the petitioner further submits that the petitioner filed application under Section 438(2) Cr.P.C. for grant of anticipatory bail in the Court of learned Addl. Sessions Judge, Fatehabad and in the said bail application the State filed its reply wherein while resisting the bail application the State specifically took plea that if released on bail the petitioner is going to influence the witnesses or may abscond. The counsel for the petitioner further contends that the police is following pick and chose policy as another co-accused Kapil who was specifically named in the FIR, has now been exonerated by the police without assigning any reason. The counsel for the petitioner further submits that the petitioner is a respectable citizen and is ready to join the investigation and if granted interim protection, is not going to abscond. So, prayer is made that petitioner be granted anticipatory bail as the custodial interrogation of the petitioner is not at all required.

The present petition is resisted by the State counsel as well as the counsel for the complainant, both of whom have contended that the petitioner is the main beneficiary of the will in question dated 05.08.2020, which has been forged by the petitioner. It has been further argued that the said will is a unregistered will alleged to be executed by Bhalla Singh paternal uncle of the petitioner who died on 27.11.2021 and during his lifetime deceased made no effort to get the same registered. It has been further argued that mutation of inheritance of Bhalla Singh was sanctioned in favour of his widow (complainant) in February, 2022 on the basis of natural succession as Bhalla Singh was issueless. It has been further argued

that only after the sanctioning of the said mutation in favour of the complainant, the petitioner filed civil suit (Annexure P-7) and thereafter on receipt of its notice, complainant came to know about the forged will of Bhalla Singh, her deceased husband and then she filed complaint with the police. It has been further argued that in the meantime the petitioner influenced the local police and succeeded in getting 'filed' the said complaint vide order (Annexure P-4) which was signed by one Head Constable and is dated 09.04.2022.

The counsel appearing on behalf of the complainant has further argued that thereafter on 20.04.2022 the petitioner tried to take forcible possession of the land of the complainant on which the matter was reported to the police but local police again failed to take any action against the petitioner. Having no alternative, the petitioner approached the Court of Illaqa Magistrate under Section 156(3) Cr.P.C. and only thereafter the FIR was registered against the petitioner and other accused persons with regard to forging of will dated 05.08.2020 alleged to be executed by Bhalla Singh, the husband of the complainant. The counsel further contends that during investigation the signatures of the deceased on the alleged will were got compared with his admitted signatures available in the bank record of year 2017 and as per the report of FSL, Madhuban the signatures of Bhalla Singh appearing on the will do not match with his standard signatures as are available in the bank record. That even the private handwriting expert has also given his report in favour of the complainant with regard to the disputed signatures of Bhalla Singh appearing on will in question. It is further contended that the petitioner is the main beneficiary of the alleged will and

he cannot claim parity with his father Dalbir Singh and one Vijay Kumar who are granted concession of interim bail by this Court. The counsel for the complainant has further submitted that filing of the civil suit by the petitioner does not debar initiation of criminal proceedings against him with regard to cognizable offence of forgery. In this context, the counsel for the complainant has placed reliance on judgment of the Co-ordinate Bench of this Court in **Sanjay Sharma Vs. State of Haryana & Ors. reported in 2022(4) RCR(Crl.) 940.**

While concluding their arguments, the State counsel as well as counsel for the complainant made prayer that the custodial interrogation of the petitioner is required for proper and effective investigation of the case.

I have considered the submissions made by counsel for the parties.

The FIR in this case has been registered on the basis of the complaint lodged by complainant Parminder Kaur under Section 156(3) Cr.P.C. wherein it has been alleged that petitioner Rajinder Singh who is her nephew has fabricated one un-registered will dated 05.08.2020 purported to be executed by her husband Bhalla Singh.

Co-accused Dalbir Singh, father of the petitioner was neither the beneficiary nor signatory to the will in question. Another co-accused Vijay is alleged to be the attesting witness of the will in question and both of them being not beneficiaries are granted concession of interim bail by this Court.

The petitioner is the main beneficiary of the will in question. The mutation of inheritance of Bhalla Singh was sanctioned in favour of the complainant by the revenue authorities on the basis of natural succession in February, 2022 and only thereafter the petitioner filed civil suit (Annexure P-7) on the basis of the alleged will. It is well settled law that civil as well as criminal proceedings could proceed ahead simultaneously with regard to same subject matter. As has been submitted by the State counsel as well as counsel for the complainant the complaint filed by the complainant with regard to forgery in question was ordered to be 'filed' by the police official of the rank of Head Constable as is apparent from Annexure P-4. So it could be easily inferred that the local police was acting under the influence of the petitioner in order to save him from legal action. This being the position, the complainant a widow approached the Court of Illaqa Magistrate concerned who passed relevant order under Section 156(3) Cr.P.C. and resultantly the FIR is registered in the present case. During investigation report has been received from FSL, Madhuban with regard to comparison of disputed signatures of Bhalla Singh on the will in question with his standard signatures which are available in the concerned bank. The allegations made against the concerned handwriting expert of FSL, Madhuban remain unsubstantiated except one complaint (Annexure P-6) which also appears to be lodged by the petitioner himself. The report of FSL Madhuban *ex facie* goes in favour of the complainant.

No doubt the present case is based on documentary evidence i.e. 'will' in question dated 05.08.2020 which is stated to be in possession of the police. However, if any interim protection is granted to the petitioner at

this stage, it will amount to stifling of the investigation at the very threshold.

This Court is of the view that the custodial interrogation of the petitioner is required for complete and proper investigation of the case.

In view of the above, the present petition being devoid of merits is hereby dismissed. However, nothing stated hereinabove shall be construed as expression of opinion on the merits of the case.

13.01.2023

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No