

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2892-2024 (O&M)
Date of Decision: 12.02.2024

TarunaPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. D.V.Sharma, Senior Advocate, with
Mr. Tushar Sharma, Advocate, for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab,
assisted by ASI Balbir Singh.

Ms. Gagandeep, wife of the complainant, in person.

FIR No.	Dated	Police Station	Section/s
0155	23.12.2023	P.S. Sarabha Nagar, Ludhiana	Sections 420, 465, 467, 468, 471, 447, 511 & 120-B IPC

GURVINDER SINGH GILL, J. (Oral)

- Petitioner – Taruna seeks grant of anticipatory bail in respect of
aforementioned FIR.
- The FIR in question was lodged at the instance of Dharanjit Singh, wherein
it is stated that he had purchased Plot No.122, Sunil Park, Ludhiana on
27.02.2010 and had got the same registered in his favour and on the basis of
which mutation had also been sanctioned in his favour. The complainant
alleges that he had come to know and saw some persons undertaking illegal
construction on his property and upon making inquiries, he came to know

that the persons, who had taken illegal possession of his property, were Sanjay Miglani and his son Nitish Miglani.

3. Learned senior counsel appearing for the petitioner submitted that the petitioner is nowhere named in the FIR, but is now sought to be arrested at behest of the complainant simply in order to exert pressure upon her husband – Sanjay Miglani and her entire family so as to extract money from them. It has been submitted that the property in question was sold to petitioner's husband by one Lakhwinder Singh and that they had duly checked the documents of title before purchasing it from Lakhwinder Singh and had also checked the documents pertaining to vendors of said Lakhwinder Singh. It is submitted that Sanjay Miglani has already been arrested by the police and that the present case in any case is more in the nature of a civil dispute and in respect of which civil litigation is already pending. Learned senior counsel further submitted that since the case is mainly based on documentary evidence and most of which has already been collected by the police, the petitioner, who is a lady, deserves the concession of anticipatory bail.
4. Opposing the petition, learned State counsel assisted by Ms. Gagandeep, wife of the complainant, who is present in person, has submitted that the instant case is actually a well orchestrated scam executed by all the accused in connivance with each other. It has been submitted that the fraud has been perpetuated on the basis of forged documents so as to deprive the complainant of his property. It has been submitted that the petitioner and her husband are the beneficiaries of the sale deed in question, which has been found to be a result of fraud inasmuch as the property in question never belonged to their so-called vendor Lakhwinder Singh and that the

documents, as referred to in the sale deed in favour of the petitioner and her husband regarding previous ownership of the property have been found to be forged. It has, thus, been submitted that the role of the petitioner is identical to that of Sanjay Miglani, who has already been arrested and as such, having regard to her complicity, she does not deserve the concession of anticipatory bail.

5. This Court has considered the rival submissions.
6. A perusal of the status report filed today by the learned State counsel shows that during preliminary enquiry, it transpired that the complainant had initially purchased the property in question i.e. Plot No.122 measuring 200 square yards from one Jaswinder Singh Rai vide sale deed bearing wasika No.11515 dated 03.03.2010, whereas the petitioner and her husband Sanjay Miglani stake their claim in the plot in question on the basis of sale deed dated 23.01.2023 as per which the petitioner and her husband have purchased the said property from one Lakhwinder Singh, who was stated to be owner on the basis of sale deed bearing wasika No.25998 dated 11.11.1994. However, upon enquiry, it transpired that Lakhwinder Singh was never the owner of the property in question and that the sale deed on the basis of which Lakhwinder Singh is alleged to have acquired ownership i.e. sale deed bearing wasika No.25998 dated 11.11.1994 itself was a forged and fabricated sale deed.
7. In fact, as per the original record, the sale deed bearing wasika No.25998 dated 28.01.1994 is not in favour of any Lakhwinder Singh and pertains to some other property situated in different village executed by one Kamal Kishore in favour of one Kulwant Singh. During enquiry, it was revealed that all the accused in connivance with each other had forged and fabricated

the sale deed in favour of Lakhwinder Singh and had thereafter entered into a sham transaction projecting that the said Lakhwinder Singh had sold the property to petitioner and her husband. The accused had gone to the extent of tampering with the record maintained in the computers by the Revenue Department and by deleting the original record pertaining to sale deed bearing wasika No.25998, bogus entries have been uploaded in the same with respect to the fake sale deed in favour of Lakhwinder Singh and on the basis of which the petitioner and her husband stake their claim while asserting that they had purchased the property from said Lakhwinder Singh. As per the fake sale deed in favour of Lakhwinder Singh, he is shown to have purchased the property from Harbhajan Singh, Bharbhur Singh, Rajinder Singh and Mohan Singh through their Power of Attorney Krishan Lal Chhabra (now deceased), but upon enquiry, it was found that no such Power of Attorney had been executed by the said 4 persons in favour of Krishan Lal Chhabra with respect to the property in question measuring 200 square yards and that the genuine Power of Attorney bearing wasika No.10442 dated 23.11.1990, which had actually been executed by aforesaid owners in favour of Krishan Lal Chhabra with respect to their entire land measuring 20 Bigha – 0 Biswa – 15 Biswani. In other words, the Power of Attorney for a smaller piece of land is itself a fake document.

8. There are certain facts which further reflect on the manner in which the fraud has been committed. The mutation in favour of Lakhwinder Singh was sanctioned by the revenue department in the year 2022 on the basis of a sale deed, which had been executed 28 years earlier i.e. on the basis of sale deed dated 11.11.1994. Still further, during the course of investigation, it has been revealed that when the accused came to know that the complainant

had moved an application with respect to the fraud in question on 04.12.2023, the petitioner and her husband applied for raising a loan against the property in question on the very next day i.e. on 05.12.2023.

9. Thus, the evidence collected by the investigating agency does indicate that a fraud has been perpetuated on the basis of forged sale deed and forged Power of Attorney. Lakhwinder Singh from whom the petitioner and her husband claim to have purchased the property was in fact never an owner of the property in question. The documents pertaining to ownership of Lakhwinder Singh were found to be forged documents. The entire case apparently is based on documentary evidence. While there is no dispute that it is the petitioner and her husband in whose favour the forged sale deed is being projected and the petitioner alongwith her husband would be the beneficiaries, but another aspect of the present case would be as to whether it is a case where the petitioner and her husband have themselves been cheated by Lakhwinder Singh, who executed the sale deed in their favour.
10. Having regard to the aforestated factual position, it will be debatable, as to whether the petitioner was fully aware that Lakhwinder Singh was not the real owner of the property in question or as to whether she was actively conniving with her husband and was fully aware as regards the fraud being perpetuated or as to whether she was moving alongwith her husband being his wife and was not sharing any active *mens rea*. The husband of the petitioner already stands arrested. In any case, having regard to the fact that the case in hand is mainly based on documentary evidence and the petitioner is a lady and otherwise is not stated to be involved in any other case previously, the petitioner can be extended the concession of anticipatory bail. The petition, as such, is accepted and the petitioner, in the event of

arrest, is ordered to be released on bail subject to her furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

11. It is clarified that none of the observations made above shall be construed as any kind of expression on the main case.

12.02.2024

Vimal

(GURVINDER SINGH GILL)
JUDGE

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