

CRM-M-7494-2024 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-7494-2024 (O & M)

Date of decision:19.04.2024

Kuldeep Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Priyanshu Kamra, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Vishal Aggarwal, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

CRM-15451-2024

The application under Section 482 Cr.P.C for placing on record certain documents (Annexures P-4 to P-7) is allowed as prayed for subject to all just exceptions. The same are taken on record.

This application stands disposed of.

CRM-15452-2024

This is an application under Section 482 Cr.P.C. for impleading Sandeep Kaur-complainant as respondent No.2 in the array of the parties.

For the reasons mentioned in the application, the same is allowed. The complainant-Sandeep Kaur is impleaded as respondent No.2

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in the array of the parties. The amended memo of parties filed alongwith the application is taken on record.

This application stands disposed of.

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The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.87 dated 12.10.2022 under Sections 419, 420, 465, 467, 468, 471, 506 and 120-B IPC registered at Police Station Khuni Khera, District Fazilka.

2. The present FIR came to be registered on the basis of various enquiries conducted on an application being moved by the complainant- Sandeep Kaur widow of Gaganpreet Singh. The original complaint/application reads as under:-

“To Senior Superintendent of Police, Bathinda <ssp.btd.police.punjab.govt.in Co: sandeepKaur 4284@gmail.com Respected sir, Thanks for your email. Your email has been acknowledged by Sr. 2219300-F, 75080-99403 Email address ssp.btd police@punjab.govt.in for further necessary action on your complaint No. 9615/DGP/21 Dated: 22.12.2021 Grievance Cell. o/o DGP Punjab. From DGP, Punjab <DGP punjab police@punjab.govt.in to Punjab Police dop.complaint.police@punjab.govt.in. Sent: Wednesday, September 15, 2021, 12:12:50 AM. Subject: Fwd: Application for necessary action regarding the forged will of Balkar Singh. From: sandeep-Kaur4284@gmail.com To DGP Punjab dop.complaint.police@punjab.govt.in, Sent Saturday, August. 7/2021 9:42:49 PM. Subject: Application for taking necessary action regarding the forged will of Balkar Singh. Respected sir, My name is Sandeep Kaur widow of late Senior Sepoy Gaganpreet Singh who was expired on 08.02.2021. At the time of death, he was

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posted at Abohar District Fazilka. After the death of my in-laws family with conspiracy had prepared a forged will of my Father-in-law who died on 23.01.2021. I pray to take necessary action against the named persons. I wish that the police department will stand with me in this tough time. Further I assure that the contents of the application attached are true. Forged will has already been challenged by me before the office of Tehsildar and Sub Divisional Magistrate, Fazilka. With folded hands from Sandeep Kaur and Samarpreet Singh son of Gaganpreet Singh. 303905/W 12.12.2021. Office of Senior Superintendent of Police Bathinda. No 453-Dal-21 Dated 29.12.2021. DGP City-1 "to examine and ensure justice as per law and report." Sd/- Senior Superintendent of Police, Bathinda. Office of Deputy Superintendent of Police, City Bathinda: Police Department, District Bathinda NO. 3 1652/5E dated 04.08.2022. 1) Complaint No. 453 DGP /2021 dated 29.12.2021. 2. Complaint by: Sandeep Kaur widow of Ggandeeep Singh Randhawa resident of House NO. 23656 street No. 1, Harbans Nagar, Bathinda, 3) Complaint against: 1) Pawandeeep Singh son of Balkar Singh, 2) Rajdeep Kaur wife of Pawandeeep Singh, 3) Dharampal Singh son of Kumar Singh, 4) Balwant Rai Numberdar son of Ram Dass, 5) Daljit Singh son of Surain Singh, 6) Kulwant Kaur wife of late Balkar Singh residents of Bakainwala. District Fazilka, 7) Kuldeep Singh son of Harcharan Singh 8) Jaswinder Kaur wife of Kuldeep Singh resident of 23-MC Company near Hanuman Mandir Fazilka. 4) If any case, then number of case: No, 5) which points have been raised in the complaint: After the death of Balkar Singh Father-in-law of complainant, tried to defeat his right by preparing a forged Will. 6) Statements of complainant party: 1) Sandeep Kaur widow of Gaganpreet Singh Randhawa resident of 1) Harbans Naga, Bathinda, 2) Harpreet Singh Randhawa son of Dharmal Singh resident of street No. 1, Harbans Nagar, Bathinda. With regard to the inquiry of complaint, complainant

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Sandeep Kaur has got her statement recorded that I am resident of above noted address. My marriage was solemnized to Gaganpreet Singh son of Balkar Singh resident of village Bakainwala, Tehsil and District Fazilka in the year 2014 and I have one son namely Samapreet Singh Randhawa out of this wedlock, whose age is 4 years. My husband was serving in Punjab Police, who was posted at Abohar, his has Belt No. 444/ Fazilka and my husband was died on 08.02.2021. My Father-in-law Balkar Singh was died on 23.01.2021. There was land measuring 6 Acres 15 Marlas in the name of my husband and after his death, the said land came to the share of me and my son Samarpreet Singh Randhawa and my Mother-in-law Kulwant Kaur in equal shares. My Father-in-law late Sh. Balkar Singh was having land measuring 2 Acres and prior to death my Father-in-law had not executed any Will regarding said land, After the death of my husband, I came back to my parental house to spend some days with my mother at Bathinda because at the time I needed the support of my mother. After the death of my husband, my Brother-in-Law (Jeth) Pawandeep Singh, Mother-in-law Kulwant Kaur and Jethani Rajdeep Kaur have started harassing me but I don't want to make sour my relations with them, due to which, on 31.03.2021 | along with my mother and brother Harpreet Singh Kahlon went to village Bakaunwala to meet my Mother-in-law and to meet her with her grandson where Kuldeep Singh brother of my Father-in-law and his wife Jaswinder Kaur also came. Pawandeep Singh, Kuldeep Singh, Jaswinder Kaur and Rajdeep Kaur have pressurized me to take my land from me and we came back from there to Bathinda while weeping. Thereafter on 13.04.2021, I along with my mother and brother again went to meet my Mother-in-law at village Bakainwala and arrived there at about 9/10 AM where my Mother-in-law has informed that the land of late Balkar Singh has been transferred to my name but I told her that mother the land of Gaganpreet Singh is

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transferred in your name but not the land of father. ON hearing it, Pawandeep Singh has made phone call Kuldeep Singh and called him there, who along with his wife Jaswinder Kaur came there from Fazilka and started quarreling to us that the land of Gaganpreet Singh came in your share, said land also transfer our name, we all sat in our room and when I went to kitchen to take water then I was hearing their gossip that keep Sandeep Kaur here with love and later on we will remove her. Thereafter I informed about it to my brother and we immediately came back from there. Thereafter I never went there. Later on I came to know that on 02.04.2021 they have made forged Will of late Sh. Balkar Singh and they have given it to Patwari for transfer of his land in their name. The mutation of said land has been transferred in the name of my Mother-in- law Kulwant Kaur. My brother has got the copy of said Will then we came to know that Dharampal Singh and Balwant Rai have appended their signatures as witness on the said Will and Pawadeep Singh has appended false signature of my Father-in-law Balkar Singn. This Will is written by Daljeet Singh. My brother has made call to Dharampal Singh, Balwant Rai and Daljit Singh then they all have admitted that this Will is fake. I came to know from this forged Will that Pawandeep Singh and Kuldeep Singh have talked to each other on 01.04.2021 to prepare this forged Will. On 02.04.2021, Pawandeep Singh has made phone call to Dharampal and Balwant Rai and called them. Dharampal Singh and Daljeet Singh reached at the house of Pawandeep Singh and talked about it to Kuldeep Singh who made this conspiracy. It is also pertinent to mention here that Pawandeep Singh had made phone calls from mobile No. 94170-28313 of my Father-in-law late Sh. Balkar Singh to these witnesses because after his death, Pawandeep Singh was using said number. They have made this false Will and also defeated the right ot me and my son. Legal Action be taken against them and justice be provided to me. Kuldeep Singh is an retired Sub

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Inspector and Jaswinder Kaur is PA to Deputy Commissioner, Fazilka, who misused their post. Therefore we have apprehension to our Vlife and liberty and after the death of my husband Jaswinder Kaur and Kuldeep Singh have made interruption in getting the claim of my husband. Therefore legal action be taken against them. It is also pertinent to mention here that the accused have presented said forged Will in the Tehsil Fazilka, where I raised objections that this is fake Will and thereafter the Hon'ble Tehsildar has transferred the said case to Hon'ble Sub Divisional Magistrate. The said case is No. 64/AC Ist and this case dismissed on 27.07.2021 by the court of Sh. Keshav Goel, PCS, Sub Divisional Magistrate -cum- Assistant Collector, ist Grade, Fazilka and same has been decided in my favour. The detail of phone calls made by my brother to the witnesses is as follows: the recording of which is made by my brother in his mobile phone, in which the witnesses have admitted their offence of making, forged. Will. 1) Dated 28.06.2021 8.19 PM my brother Harpreet Singh has made phone call from his mobile NO. 9463869360 to mobile No. 94639-35282 of Dharampal Singh, the duration of this call was 32 Minutes 45 Seconds and call recording from 8.8 PM to 9.14 PM of dated 03.07.2021 is enclosed herewith. 2. ON 30.6.2021 at 7.55 PM, my brother Harpreet Singh has made phone call from his mobile No. 94638- 069360 to mobile No.9440-07914 of Balwant Rai, the call recording of 46 Minutes 22 Seconds is enclosed herewith. 3) On 01.07.2021 at 7.19 PM and 731 PM, my brother Harpreet Singh has made phone call from his mobile No. 94638-069360 to mobile No. 94638-73800 of Daljeet Singh, the call recording of 11 minutes 37 Seconds and 5 Minutes 26 Seconds is enclosed herewith. The above said persons have made fake Will of my Father-in-law late Sh. Balkar Singh in connivance to each other in favour of my Mother-in-law Kulwant Singh, therefore legal action be taken against above said accused persons.”

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3. The above-noted complaint of Sandeep Kaur was thoroughly enquired into through Deputy Superintendent of Police, City-1, Bathinda and the allegations were found to be correct. After obtaining legal opinion from the Deputy District Attorney Legal, Bathinda, as per the instructions of Additional Director General of Police, Public Grievances Division Punjab, Chandigarh, FIR No.87 dated 12.10.2022 under Sections 419, 420, 465, 467, 468, 471, 506 and 120-B IPC, Police Station Khui Khera, came to be registered against Pawandeep Singh, Dharampal Singh, Kuldeep Singh (petitioner), Daljeet Singh, Kulwant Kaur and Balwant Singh.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The dispute relating to forgery of the Will is entirely civil in nature. At one stage, a compromise had been entered into and it was the complainant who had backed out from the same. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail, moreso, when a co-accused/Balwant Rai had been granted the similar concession.

5. The learned counsel for the complainant, on the other hand, contends that the petitioner being the brother of the deceased-Balkar Singh and a retired Sub Inspector is the main conspirator who got prepared the forged Will in order to cheat the complainant, the daughter-in-law of the deceased-Balkar Singh. It was the petitioner who had produced the Will before the Revenue Authorities. The wife of the petitioner was a P.A. to the Deputy Commissioner, Fazilka, and therefore, they were well-connected. Phone recordings between the parties also established that the offence of forgery had been committed. While it was correct that a compromise had

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been arrived at, at an earlier stage as was evident from Annexure P-7, it was the accused party which had refused to give possession of 04 acres of land to the complainant under the compromise because of which it had failed. In fact, even during the pendency of the instant proceedings, the parties had appeared before the Mediation and Conciliation Centre of this Court where once again no compromise could be effected on account of the conduct of the accused who refused to honour the Panchayti compromise (Annexure P-7), as per which 04 acres of land was to come to the share of the complainant. Balwant Rai was only a witness to the forged Will and therefore, his case was on a better footing than that of the petitioner. He, therefore, contends that as the offence was *prima facie* established on the basis of enquiries pursuant to the filing of the complaint, the petitioner was not entitled to the concession of anticipatory bail.

6. The learned counsel for the State while referring to the reply dated 14.03.2024 contends that on the basis of the enquiry conducted so far, it was found that it was the petitioner who had produced the forged Will before the Revenue Authorities. Therefore, as the offence was *prima facie* established, the petitioner was not entitled to the concession as prayed for.

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

8. The Hon'ble Supreme Court in the case of '*Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977*', has 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

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“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 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***

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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.”

9. In the instant case, a complaint had been moved by the complainant-Sandeep Kaur widow of Gaganpreet Singh with the allegations that her in-laws' family including the petitioner had fabricated the Will of her father-in-law/Balkar Singh and had produced the same before the Revenue Authorities to get transferred the land in their name. The enquiry conducted pursuant to the filing of the complaint has clearly established that the petitioner being the brother of the deceased-Balkar Singh had produced the Will before the Revenue Authorities and the statement of the concerned Patwari was recorded to this effect. Phone recordings between the complainant party and the accused side clearly establish that the Will had been fabricated at the instance of the petitioner-Kuldeep Singh who happens to be a retired police officer. Further, despite entering into a Panchayat compromise (Annexure P-7), it is the accused side which has not honoured the same inasmuch as the possession of 04 acres of land coming to the share of the complainant was not given to her. The said fact has been conceded by the petitioner as is apparent from the order of this Court dated 19.03.2024. Therefore, on the one hand, the Will appears to be fabricated and on the other hand, the compromise arrived at pursuant to the registration of the FIR has not been honoured by the accused side. Therefore, the complainant who is a widow has been left in more or less destitute condition. As the offence has been *prima facie* established and the investigation is to be taken to its

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logical conclusion, the custodial interrogation of the petitioner is certainly required.

10. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

11. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2024
sukhpreet

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