

2024:PHHC:055060

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

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CRM-M-14405-2024
Date of Decision : April 23, 2024

RADHA HANDA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Raghav Garg, AAG, Punjab.

Mr. Vaibhav Jain, Advocate
for the complainant.

KULDEEP TIWARI, J. (Oral)

1. On the last date of hearing, i.e. 20.3.2024, the following
order was passed:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.45 dated 06.03.2024, under Sections 420, 465, 467, 468, 471, 120-B of the IPC, registered at P.S. Navi Baradari, District Police Commissionerate Jalandhar.

2. The present FIR was registered by the complainant- Pawan Kumar, on the allegations that, his siblings, i.e. the petitioner and other co-accused, in connivance with each other and officials of revenue department, forged a Will of their deceased parents and also got it illegally registered, without following due and lawful procedure, and, without even giving him any prior notice. Thereafter, on the basis of said forged Will, a mutation was also sanctioned in favour of the petitioner and other co-accused.

3. *The complainant has further alleged in the present FIR that his father had died intestate, and, his mother, who was happily living with him, executed her first and last Will dated 31.08.2022, thereby bequeathing all her movable and immovable properties in his favour. After the demise of his father, his estate equally devolved upon his Class I legal heirs, however, in order to defeat his right, a forged and fabricated Will has been prepared by the petitioner and other co-accused. It has been further alleged that even a civil suit has been filed by the accused, however, no such declaration qua existence of any Will has been made therein, which renders the said Will to be surrounded by clouds of suspicion.*

4. *The learned counsel for the petitioner, in his asking for the relief (supra), submits that in fact a civil matter has been camouflaged as a criminal offence, and that, the authenticity of the Will concerned is yet to be ascertained and established before the civil court concerned.*

5. *At this stage, Mr. Vaibhav Jain, records his appearance on behalf of the complainant, under a memorandum of appearance, instituted before this Court today, and, as prayed for, he is permitted to file a validly executed Vakalatnama in his favour by the complainant, on or before the subsequent date of hearing. He has opposed the grant of anticipatory bail to the petitioner, on the ground that, just to save themselves from criminal proceedings, the petitioner and her co-accused have not been producing the original Will either before the civil court concerned or before the investigation officer. Not only this, the original Will has not even been produced before the Registrar concerned, who has merely on the basis of photocopy of the Will, registered the same.*

6. *Be that as it may, since the allegations levelled in the present FIR prima facie appear to be civil in nature, coupled with the fact that the case is based upon documentary evidence, this Court deems it appropriate to grant the asked*

for relief to the petitioner.

7. *Notice of motion for 23.04.2024.*

8. *Mr. Pardeep Bajaj, D.A.G., Punjab, accepts notice on behalf of respondent-State of Punjab.*

9. *In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of her arrest, she shall be admitted to interim bail on her furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”*

2. Today, the learned State counsel on instructions imparted to him by ASI Vinay Kumar, submits that the petitioner has already joined the investigation and he is fully co-operating with the investigation process and he is not required for any further custodial investigation.

3. In view of the specific stand taken by the learned State counsel, the present petition is **allowed** and order dated 20.3.2024 is, hereby, made absolute subject to the condition that the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

(KULDEEP TIWARI)
JUDGE

April 23, 2024
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No