

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.22058 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Jaswinder Kumar and Another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
316	25.12.2023	Patran, District Patiala	420, 465, 468, 471 IPC

1. The Petitioners apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 23 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“4. That brief facts of the case are that the present FIR no. 0316 dated 25.12.2023, registered under Sections 420, 465, 468, and 471 of the Indian Penal Code at Police Station Patran, District Patiala, Punjab by the complainant Rajinder Kaur, wife of (Late) Bikar Singh, a resident of Dhandyal Road, opposite BDPO office, Patran Tehsil, District Patiala, submitted an application seeking for the issuance of a Lookout Circular (LOC) against Manjinder Singh, son of Amrik Singh, resident of Dera Jatta da Shadipur alias Momia Tehsil, District Patiala. The complainant Rajinder Kaur alleged that a plot measuring 400 square yards located near Patran Parjapat Dharamsala and near Sher Singh colony, Tehsil Patran, District Patiala, was in the name of her late husband, Bikar Singh, son of Labh Singh, who was the special power of attorney holder for Jagtar Singh, son of Mukhtiar Singh. The said plot falls under Najul land, which cannot be transferred in revenue records and does not have any registry. Following the

death of her husband on 28.02.2021, the complainant Rajinder Kaur discovered documents related to the plot, indicating her entitlement to the property. However, upon visiting the plot, she found it occupied by Manjinder Singh. When the complainant confronted Manjinder Singh, then he refused to vacate the plot and subsequently sent a forged agreement to sell via mobile phone, falsely claiming Bikar Singh's signatures and lacking any legitimate witnesses. The complainant Rajinder Kaur asserted that the said agreement was created with dishonest intentions and in conspiracy to defraud her, noting its preparation and verification in Patiala instead of Tehsil Patran. Furthermore, reliable sources have informed her that Manjinder Singh was planning to sell the said plot and was about to flee abroad. Therefore, Rajinder Kaur urgently requests the issuance of a Lookout Circular against Manjinder Singh to prevent his departure and seeks legal action to reclaim her property and obtain justice."

4. The Petitioners' counsel argues that the petitioner-Harbhajan Singh is working in factory as Gatekeeper and Jaswinder Kumar is milkman as none of the petitioners is property dealer. He further submits that the seller Bikar Singh, the husband of the complainant had executed the agreement dated 17.10.2019 and present petitioners are not beneficiaries. He further argues that dispute is regarding agreement to sell which is of civil nature and police has no role to play in such matters and both the parties have filed civil suits against each other.

5. The Petitioners' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the Petitioners and their family.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"5. That police conducted preliminary inquiry, during which summons were issued to both parties to join the investigation. Rajinder Kaur, Manjinder Singh, Amritpal Singh son of Chanan Ram, resident of Ward No. 15 near Vishwakarma Mandir Patiala Road Patran, Jagtar Singh son of Mukhtiar Singh, and Sukhwinder Singh son of Labh Singh, resident of village Dhandyal Road Patran joined the investigation, recorded their statements, and presented related documents. Additionally, witnesses Jaswinder Kumar son of Satpal, resident of Ward No. 03 Road Patran and Harbhajan Singh son of Mahinder Singh, resident of Ward No. 02 Road Patran (the present petitioners) also joined the investigation and recorded their joint statement. That from the said inquiry it was revealed that in the year 1990, Jagtar Singh son of Mukhtiar Singh, resident of village Kahangarh Road Patran, presently residing at House No. HIG 738 Phase-I, Urban Estate Patiala purchased a 1500 square yard plot on Kahangarh Road Patran. On 12.06.2008, Jagtar Singh gave the power of attorney (Mukhtiyar-e-Khas) for this plot to Bikar Singh (the husband of the complainant). Bikar Singh retained 400 square yards of land and sold the rest.

Bikar Singh passed away on 28.02.2021, leaving behind his wife, Rajinder Kaur, who is ill, and two daughters. Taking advantage of this situation the above said Manjinder Singh allegedly prepared a

fake agreement dated 17.10.2019 for the 400 square yard plot in Bikar Singh's name and took possession of the land by forging Bikar Singh's signatures. Upon discovering this, Rajinder Kaur asserted her rights to the plot and filed the present application.

7. That during the inquiry Manjinder Singh presented the agreement, purportedly prepared in 2019, bore the signature and seal of Municipal Councillor (MC) Amritpal. Regarding which, MC Amritpal disclosed that Jaswinder Kumar brought the agreement to him in 2022, claiming it was related to Najul land and requested Amritpal's signature and stamp on the document as he was the Municipal Councillor (MC) of that ward in 2019 therefore on trusting him, MC Amritpal signed and stamped the agreement without further verification. The complainant, Rajinder Kaur independently obtained an expert report on the signature of Bikar Singh on the agreement from Varun Gagneja, an examination and handwriting expert, in which, in his opinion, he concluded that the signature is forged.

Furthermore, the Department of Electricity Board has issued a disconnection order for the meter installed by Manjinder Singh on the said plot. These facts clearly indicate that Manjinder Singh has taken possession of the land by preparing a fake agreement in the name of Bikar Singh with the intention of illegally usurping the plot under a well-planned conspiracy. Consequently, Manjinder Singh has been primarily found guilty of his conduct and accordingly the present FIR was initially registered against Manjinder Singh. However, it was stated that role of others may also be investigated.

8. That during the investigation the complainant Rajinder Kaur recorded her supplementary statement with the investigating agency in which she specifically alleged that Jaswinder Kumar and Harbhajan Singh (the present Petitioners), were threatening her and both the petitioners, in connivance with Manjinder Singh, have illegally possessed the plot in question. Consequently, the both the petitioners were nominated as accused on 12.04.2024 in the present FIR."

8. The petitioners were witnesses to the forged agreement but were not the buyers, and there is no evidence of financial benefits.

9. There is sufficient prima facie evidence connecting the petitioners with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there

would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the Petitioners make a case for bail.

11. Given above, provided the Petitioners are not required in any other case, the Petitioners shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fail to appear, such surety can produce the accused.

12. While furnishing personal bonds, the Petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the Petitioners' complying with the following terms.

14. The Petitioners are directed to join the investigation within seven days and as and when called by the Investigator. The Petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act. The Petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the Petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The Petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners can download this order along with case status from the

official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.