

CRM-M-27750-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27750-2024
Reserved on: 03.09.2024
Pronounced on: 11.09.2024

Sukhwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sahil Matharoo, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
52	24.02.2022	City Kharar, District SAS Nagar (Mohali)	420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. In paragraph 14 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:

“2. That with regard to the subject matter of the present petition, it is submitted that case/FIR No.52 dated 24.02.2022 under Section 420, 120-B IPC was registered at Police Station City Kharar, District S.A.S Nagar against Manjeet Kaur, Baljt Singh and Sukhwinder Singh Numberdar (petitioner) after preliminary enquiry into the complaint bearing No. 317/Peshi/S.S.P/S.A.S Nagar dated 30.01.2019 received from Sukhdeep Singh in the office of SSP, District SAS Nagar by the Incharge, E.O. Wing (C), District SAS Nagar, agreement on the said report of the DSP (P.B.I/N.D.P.S), District SAS Nagar, legal opinion obtained from Ld. D.D.A (Legal), District SAS Nagar and approval of the same by the SSP, District SAS Nagar on the allegations that the aforesaid accused committed fraud against the complainant by entering the wrong/illegal mutation No. 5174 dated 12.09.2018 for land situated at Village Jandpur, Hadbast No. 28, Tehsil Kharar, District SAS Nagar.

It had been alleged by the complainant that his grandfather, Surmukh Singh, owned land situated at Village Jandpur, Tehsil Kharar, District

SAS Nagar. The complainant's grandfather passed away on 21.06.2016, and the mutation of his land was supposed to be entered in the names of his legal heirs, namely: 1. Gurdev Kaur, 2. Harbans Singh, 3. Jagjit Singh, 4. Manjit Kaur, 5. Rajinder Kaur, 6. Nirmal Singh (since deceased), leaving behind his widow-1. Kuldeep Kaur, and sons 2. Sukhdeep Singh, 3. Sandeep Singh, and 4. Hardeep Singh. Out of these heirs, the husband of Rajinder Kaur, Baljit Singh, in connivance with Patwari Kushaldeep Singh and Palwinder Singh, conspired to usurp the land by fraudulently obtaining mutation No. 5174 dated 12.09.2018 for land Khewat No. 164/151 Min/176 Khasra No. 5//18 (8-0), 23 (8-0), 12//3 (8-0), 8 (7-2), 9/1 (2-1), 13 (8-0), Kitta 1 Rakba 41 Kanal 3 Marlas, situated at Village Jandpur, Hadbast No. 28, Tehsil Kharar, District SAS Nagar, but failed to secure mutation in favor of the other legal heirs. The complainant further stated that land in Village Jandpur is being sold at higher prices, and the aforementioned persons, in connivance with each other committed a serious fraud by not obtaining proper mutation of the land. Rajinder Kaur and Baljit Singh were fully aware of Nirmal Singh's legal heirs and deliberately obtained false mutation sanctions with the help of Patwari and his associate.

3. That it is pertinent to mention here that during the preliminary enquiry, it came to light that Baljit Singh had purchased stamp papers dated 01.08.2016 in the name of his sister-in-law Manjit Kaur, who executed an affidavit regarding the successors of Surmukh Singh. In her affidavit, she did not mention the legal heirs of Nirmal Singh. Based on this incorrect information, a wrong pedigree table of Surmukh Singh was prepared, which was attested by Sukhwinder Singh (petitioner), who is the Numberdar of the Village. Accordingly appropriate legal action was sought against the aforesaid persons.”

4. The petitioner's counsel refers to the following paras of bail petition, which read as under:-

“That it is humbly submitted that during the inquiry it is established that the entire offence has been committed by co- accused Baljit Singh and Manjit Kaur and the alleged mutation has been sanctioned on the basis of the affidavit submitted by Manjit Kaur. The only allegation levelled against the present petitioner is that the present petitioner has attested the Kursinama which was prepared by the Patwari on the basis of affidavit submitted by co-accused Manjit Kaur. It is submitted that the present petitioner is not an author of the alleged kursinama. The relevant extract of inquiry report is as under for the kind convenience of this Hon'ble Court;

"During inquiry, it is found that Baljit Singh son of late Balwant Singh resident of village Chhotian Jhakhian, Tehsil and District Rupnagar has purchased one stamp paper on 01.08.2016 in the name of his sister in law Manjit Kaur and regarding which Baljit Singh has admitted in his statement that affidavit was prepared on that stamp paper by Manjit Kaur and same was got attested by her from Executive Magistrate Kharar on 01.08.2016. Regarding mutation No.5174 dated 12.09.2018 Halqa Patwari Kuldeep Verma has stated in his statement that in September, 2018 Baljit Singh Mobile No.94944-23863 has submitted the application dated

CRM-M-27750-2024

01.08.2016 of Manjit Kaur daughter of Surmukh Singh wife of Bhupinder Singh resident of Mundho Sangtian, District Mohali, which was already marked by the Tehsildar to Halqa Patwari for necessary action alongwith affidavit of Manjit Kaur attested by Tehsildar Kharar regarding the LRs of Surmukh Singh and photocopy of death certificate of Surmukh Singh and the name of LRs of Surmukh Singh mentioned in the statement in order to enter the mutation of succession of Surmukh Singh. According to which the Patwari has prepared kursinama of LRs of Surmukh Singh and Kursinama was attested by the present Nambardar of village Jandpur namely Sukhwinder Singh. Halqa Patwari has on the basis of Kursinama which was prepared on the basis of affidavit has entered the mutation of the succession of Surmukh Singh vide mutation No.5174 in favour of Gurdev Kaur wife of Surmukh Singh, sons Harbans Singh and Jagjit Singh and daughters Manjit Kaur, Rajinder Kaur (name Jagjit Kaur is mentioned) on 12.09.2018 and sent the same for the necessary action through Circle Kanugo Kharar to Tehsildar Kharar was got approved on 02.10.2018."

7. That it is humbly submitted that the entire grouse of the complainant has already been sorted out by the Revenue Department and during inquiry the Halqa Patwari has categorically stated that when he came to know about the fact that LRs of late Nirmal Singh have been left out from entering into the mutation of late Surmukh Singh, then he immediately made report and send the same to the higher officers for approvals and resultantly mutation would be correct accordingly. The relevant extract of the inquiry report is as under:

"Then in January, 2019 Jagjit Singh son of late Surmukh Singh resident of village Jandpur has intimated to the Halqa Patwari by coming to his office that in the above said mutation the names of the LRs of his brother Nirmal Singh have not been shown because Nirmal Singh had expired. Upon which Halqa Patwari stated that in mutation No.5174 the correct LRs of late Surmukh Singh are Gurdev Kaur widow, Harbans Singh, Jagjit Singh sons, Manjit Kaur, Rajinder Kaur daughters and Kuldeep Kaur widow and Hardeep Singh, Sukhdeep Singh, Sandeep Singh sons Nirmal Singh son of Surmukh Singh and accordingly the Patwari has prepared report dated 18.01.2019 in order to review the names in the mutation and sent the same to the Naib Tehsildar Kharar for orders and the same has been sent through proper channel to the SDM Kharar and through SDM Kharar to the Deputy Commissioner, SAS Nagar and after taking the orders the above said mutation will be reviewed and the mutation will be corrected in the name of all LRs of Surmukh Singh."

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

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

CRM-M-27750-2024

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

“10. That vide the present petition, the petitioner has prayed for grant of concession of anticipatory bail in the present case/FIR No. 56 (supra) on flimsy grounds besides raising disputed questions of facts, which need not be entertained by this Hon'ble Court at this stage. It is submitted that the petitioner has been specifically named in the present case/FIR No. 52 (supra) and Serious/specific allegations have been levelled against the petitioner that he, in connivance with other co-accused, prepared a false pedigree table and attested it with the intent to defraud the legal heirs of the deceased Nirmal Singh. The allegations levelled against the petitioner and his co-accused are serious in nature, which are presently under investigation. Thus, the custodial interrogation of the petitioner is required at this stage in order to ascertain his actual role and to take the investigation of the present case/FIR No. 52 (supra) to its logical conclusion. In case, the petitioner is released on bail then, there is every likelihood that he would evade the process of law, escape from the clutches of law, not co-operate with the investigation, tamper with the prosecution evidence and influence/threatened the prosecution witnesses.”

8. The incident is old, and the nature of the evidence is documentary. Although sufficient prima facie evidence connects the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, this Court is not considering the evidence at that stage but is analyzing it for the bail stage.

9. 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 petitioner makes a case for bail.

10. Given above, provided the petitioner is not required in any other case, the petitioner 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 fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner 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)	

CRM-M-27750-2024

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner 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 petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner 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.

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

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner 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.

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

(ANOOP CHITKARA)
JUDGE

11.09.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.