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

CRM-M-27820-2024 (O&M)

Date of Decision: 22.10.2024

Bakshish Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Navkiran Singh, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Onkar Singh Batalavi, Advocate, for respondent No.2.

Rajesh Bhardwaj, J.**CRM-41740-2024**

Allowed as prayed for.

Main case

1. The petitioner has approached this Court praying for granting him anticipatory bail in a case FIR No.49, dated 01.05.2024, registered under Sections 420, 467, 468, 471, 120-B IPC, at Police Station Sujampur, District Pathankot.

2. Succinctly, the facts of the case are that statement of Surinder Singh was recorded, wherein it was alleged that brother of his mother Ajit Kaur, namely, Sukhbir Singh had no children and he died in the year 2007. Land measuring 8 Kanals 6 Marlas of his maternal uncle Sukhbir Singh was transferred in the name of his wife Kulwant Kaur, who died on 10.04.2021. Bakshish Singh (petitioner), Satnam Singh and Paramjit Kaur prepared a false Will in which Satnam Singh's maternal uncle Piara Singh son of Sewa Singh, Bakshish Singh's father-in-law Piara Singh son of Dalip Singh and person from their own village, namely, Jaini were shown as the witnesses. It

is further alleged that mother of the complainant Ajit Kaur filed an



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application against the accused and hence, Bakshish Singh, Satnam Singh and Paramjit Kaur compromised the dispute with her on the condition that they would register 63 marlas of land for a consideration of Rs.25 lacs in her name. Thus, his mother paid Rs.20 lacs to Bakshish Singh. Apart from this, they took Rs.10 lacs from Prabhdayal Singh and agreed to sell 30 marlas of land. However, on receiving Rs.30 lacs, they backed out of the compromise arrived at and thus, neither the land was transferred in the name of his mother nor money paid by her was returned to her. It is further alleged that thumb impression affixed on the Will was forged and on account of the forgery committed with his mother, she suffered a paralytic attack. Thus, he prayed that legal action be taken against the accused for preparing false Will by forging thumb impression of deceased Kulwant Kaur and making the close relatives as witnesses on the same. On the basis of the complaint lodged, the FIR was registered and investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Pathankot for grant of anticipatory bail, however, after hearing both the sides, finding no merit in the same, learned Court declined the same vide its order dated 24.05.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that from the bare reading of the allegations made in the FIR, it is apparent that the dispute among the parties is of civil nature. He submits that the Will in question has already been assailed by the complainant by way of filing of a civil suit, which is pending adjudication. He submits that the genuineness of



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the Will was assailed before the Assistant Collector Ist Grade by Ajit Kaur when the legatees filed application for entering the mutation as per the Will. However, the objections regarding the mutation as per the Will, were withdrawn by Ajit Kaur and she entered into a settlement with the petitioner. He submits that Ajit Kaur, had already filed a civil suit challenging the genuineness of the Will and suit for specific performance against the petitioner and three other person. He submits that after the demise of Ajit Kaur, her son and complainant Surinder Singh moved another application dated 27.09.2023 seeking action against Bakshish Singh, Piara Singh and others regarding the forged Will. It has been further submitted that SSP, Pathankot on 10.12.2022 and 06.01.2023 had submitted his reports, which would reveal that there was not an *iota* of evidence in terms of the FSL report or expert opinion to say that there were two thumb impressions on the original Will. He submits that the petitioner is the brother of deceased Kulwant Kaur, who died issueless. It is submitted that no *prima facie* case as alleged against the petitioner is made out. He submits that at the most the dispute is purely of civil nature and thus, there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner in connivance with the co-accused had usurped the share of the mother of the complainant. It is submitted that the petitioner is the beneficiary of the Will and he produced the forged Will for registration before the Sub Registrar, Pathankot which was registered on 06.08.2021. He



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submits that the original Will was returned to the petitioner and record of the same was kept in the office of Sub Registrar. He submits that on raising objection by Ajit Kaur, i.e. the mother of the complainant, the petitioner cleverly settled the matter with her and agreed to transfer 63 Marlas of land in favour of Ajit Kaur after receiving Rs.20 lacs from her. He submits that the agreement was written on the stamp paper of Rs.4,000/-, which was purchased by the petitioner from the stamp vendor Sham Singh. He further submits that after having entered into the agreement and taking Rs.20 lacs from the mother of the complainant, the petitioner clandestinely backed out of the compromise. He has submitted that mother of the complainant filed a complaint to the SSP, Pathankot against the petitioner and other accused regarding forged Will and cheating. Enquiry was conducted and fraud played by the petitioner and co-accused was *prima facie* established. He has submitted that the petitioner had tampered with the evidence by smudging the ink on the forged Will to deceive the experts so as to restrain the experts from giving any finding on the Will prepared by the petitioner. He submits that the property of Sukhbir Singh i.e. maternal uncle of the complainant and his wife Kulwant Kaur is in possession of the petitioner and in order to usurp the whole property, the petitioner committed the fraud by preparing a forged Will and cheating the mother of the complainant after taking Rs.20 lacs from her.

5. Per contra, learned State counsel has also opposed the submissions made by counsel for the petitioner. He has drawn the attention of this Court to status report already filed by way of affidavit of Lakhwinder Singh, PPS, Deputy Superintendent of Police, Dhar Kalan, District



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Pathankot, dated 25.06.2024. He has submitted that on the complaint filed by the mother of the complainant, enquiry was conducted and the enquiry officer demanded original Will from the petitioner for comparison of the thumb impression of the deceased Kulwant Kaur. He submits that the petitioner had tampered the evidence by smudging the ink on the thumb impression on the Will to deceive the experts. It has been submitted that the matter was thoroughly enquired and the record of the Sub Registrar was taken by the enquiry officer, who found that from the naked eye it could be easily seen that the petitioner intentionally smudged the ink on the thumb impression and handed over the same to the police so that comparison could not be done. He thus submits that a thorough and fair investigation is required to be done and granting anticipatory bail to the petitioner would scuttle the investigation. He thus prayed that there being no ground for grant of anticipatory bail to the petitioner, the present petition deserves to be dismissed.

6. Heard.

7. After hearing learned counsel for the parties and perusing the record, it is deciphered that the present FIR has been registered by Surinder Singh. The bone of contention in the present case is the property left by Sukhbir Singh and his wife Kulwant Kaur, who died issueless. The complainant's mother was sister of Sukhbir Singh, whereas, the present petitioner is brother of the deceased Kulwant Kaur. On the death of Sukhbir Singh, the property was transferred in the name of his wife Kulwant Kaur. As submitted before this Court, on the demise of both Sukhbir Singh and Kulwant Kaur, the property left by both of them, is in possession of the petitioner. The petitioner had produced the Will left by Kulwant Kaur, which



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was objected by mother of the complainant. However, as disciphered from the record, the petitioner entered into a compromise with the mother of the complainant Ajit Kaur. Ajit Kaur had allegedly given Rs.20 lacs to the petitioner in terms of the agreement arrived at between them. However, the petitioner backed out of the same after having taken Rs.20 lacs from Ajit Kaur. Neither the land was transferred in the name Ajit Kaur nor the money was returned to her. Enquiry was conducted on the Will produced by the petitioner, however, as per record, no definite opinion could be given on the same. Further the original Will produced was found smudged with the ink on the thumb impression of Kulwant Kaur and thus, comparison of the thumb impression of the deceased, was also not possible. Needless to say that the petitioner is beneficiary of the Will produced by him. From the allegations made in the FIR, a through and fair investigation is essential for unrevealing the mystery.

8. Hon'ble Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced,



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for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

09. Hon’ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

10. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been *prima facie* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

12. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

22.10.2024

sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/Nos