



102 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30530-2024
Date of decision: 28th June, 2024

Balvinder Singh
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Punchi, Advocate for the petitioner.
Mr. Arjun Lakhanpal Addl. A.G. Haryana.
Mr. Rajesh Sethi, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
225	10.06.2024	Sadar, Sirsa	34, 380, 427 and 457 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant Jasvir Singh alleging therein that he alongwith three more persons had entered into an agreement to purchase land measuring 9 kanals, 7 marlas, 5 sarsai belonging to Kulwinder Singh



son of the present petitioner. A written agreement was executed between the complainant and the above mentioned three persons. They had made payment of full and final sale consideration amount of Rs. 1,35,00,000/- to Kulwinder Singh and the possession of the aforementioned land was handed over to him. As per terms of the agreement, the sale deed was to be registered, whenever the complainant and other purchasers desired and in case the vendor backed out from the terms of the agreement, then they would be at liberty to get it registered by filing a suit. The complainant alleged that soon after execution of agreement and receipt of the sale consideration amount, the son of the present petitioner went to Canada and despite the fact that the petitioner and his son were approached by the complainant several times to execute the sale deed in their favour, they had not been coming forward. Ultimately, the complainant was constrained to serve a legal notice upon the son of the petitioner and as well as the petitioner but instead of coming forward to execute sale deed, the petitioner in-conivance with some other persons got removed an iron room which was installed in the property purchased by the complainant and wherein the complainant had kept his agricultural equipments, gas cylinder, cots etc. and had locked the same. Some other expensive articles were also kept therein. This iron room was got removed by cutting down the iron fencing installed around the boundary of the property so purchased. Thereafter, the petitioner and his son filed suit for injunction against the complainant and others by concealing the fact that the complainant and others had already been handed



over possession of the property by themselves. The petitioner and other persons also damaged the property belonging to the complainant and therefore, he prayed for taking action against the culprits. After registration of the FIR, investigation proceedings were initiated and are under way. The petitioner had moved an application for pre-arrest bail before the learned trial Court which was dismissed vide order dated 14.06.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case by the complainant who along with others tried to take forcible possession of the land belonging to his son and due to the reason that the complainant on behalf of his son and as his general power of attorney holder has filed a suit for permanent injunction against them. It is submitted that the agreement alleged to have been executed between the son of the petitioner and the complainant was never acted upon and the possession of the property which is subject matter of the civil suit filed by the petitioner had never been handed over to the complainant or any other person. The petitioner is even otherwise not owner of this property and it is his son who owns the same. He is an old aged ailing person. The civil litigation is already pending. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. Therefore, it is argued that he deserves to be extended benefit of bail.

4. Learned State counsel assisted by learned counsel for the complainant has argued on the other hand that there are serious and specific



allegations against the petitioner. His son executed an agreement to sell his property measuring 9 kanals, 17 marlas and 5 sarsai in favour of the complainant and three other persons after receiving entire sale consideration amount of Rs. 1,35,00,000/- in the year 2012 and the petitioner was attesting witness to the said agreement. The actual physical possession of the said property had been handed over to the complainant and the co-purchaser at the same time after receiving entire sale consideration amount but ever since then the petitioner and his son have not been coming forward to execute sale deed in their favour. Rather, now in connivance with his son and to avoid execution of sale deed, the petitioner has filed a suit for injunction against the complainant and co-purchaser only with *malafide*. Not only this, by hatching conspiracy with his son, the petitioner has not only wrongfully trespassed into the property in their possession but also committed theft of iron room and the articles kept therein by cutting the boundary fencing of this property. His custodial interrogation is required for recovery of the stolen property as well as for conducting thorough investigation in the matter. Therefore, it is argued that he does not deserve to be given concession of pre-arrest bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner in-connivance with the co-accused is alleged to have taken away/removed an iron room installed in the land which is subject



matter of dispute between the parties by way of civil litigation. He is also alleged to have removed agricultural equipment and other articles belonging to the complainant with the help of bulldozer by cutting the iron fencing of the said property. The complainant has shown copy of agreement shown to be executed by the son of the petitioner in favour of the complainant and three other persons and as per terms of the same, the possession of abovesaid property was handed over to the complainant and co-purchasers by receiving entire sale consideration amount in the year 2012. The powers under Section 438 of Cr.P.C. are to be exercised in extra ordinary and sparing circumstances and the same should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The petitioner is accused of committing theft in the property in possession of complainant. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the nature of the subject offences, the role of the petitioner coupled with the fact that the recovery of the stolen property belonging to the complainant is to be effected and no extra ordinary circumstance is shown to have been made out in this case, I am of the considered opinion that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police. Accordingly, no ground for



extending benefit of pre-arrest bail is made out. Hence, the petition stands dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

28th June, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |