



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.282

CRM-M-41190-2024 (O&M)
Date of decision: 05.09.2024

Suresh Kumar Bajaj

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Akshay Chadha, Advocate for the petitioner.

Mr. Vinay Kumar, DAG, Punjab.

Mr. Charanpal Singh Bagri, Advocate for the complainant.

KIRTI SINGH, J.(Oral)

1. Apprehending arrest the petitioner has filed this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail in case bearing FIR No.123 dated 19.11.2022, under Sections 420, 467, 468, 471, 472 and 120-B of IPC (Section 406 IPC added later on), registered at Police Station Mullanpur, District S.A.S. Nagar, Mohali.

FIRST INFROMATION REPORT

2 The contents of the FIR be read as under:-

“Copy of Letter No.4720/5A/ S.B./Investigation/SAS Nagar dated 19.11.2022 from Superintendent of Police (Investigation, District SAS Nagar to Senior Superintendent



of Police, district SAS Nagar. No. 9036 CR./L/A-1 dated 18.11.2022 from Director Bureau of Investigation Punjab, Chandigarh and letter No.7691/S.S.P./SAS Nagar dated 19.11.2022 regarding CRWP No.9767 of 2022 titled as "Bahadur Singh & Others Vs. State of Punjab & Others" and complaint No.709/PC/SSP dated 26.02.2020, 1580/Special, SAS Nagar dated 24.11.2020 from Karamjit Singh son of Ajaib Singh resident of Village Palheri, Tehsil & District SAS Nagar. Sir, reference of office letter no.9036 C.R.L.A-1 dated 18.11.2022 of the office of Director Bureau of Investigation Punjab, Chandigarh and your office letter No.7691/S.S.P. dated 19.11.2022 on the above mentioned subject. The applicant Karamjit Singh has submitted one application no.709/P/S.S.P. dated 26.02.2020 against the opposite party President Suresh and other office bearers of The Indian Cooperative House Building Society and Manwinder Singh, Notary Public to SSP Sahib, SAS Nagar. Thereafter, another application no.1580/Special/SSP dated 24.11.2020 was submitted by above said Karamjit Singh and other land owners. In both the applications, the land owners had requested for taking legal action against officiating members of the Society in connivance with each other for trying to get CLU of their land by preparing forged documents of the land owners. So that after getting approval of the Colony from GMADA, they may be able to sell the same further. The inquiry of the above said application was conducted by Sh. Harmandeep Singh Hans, I.P.S. Superintendent of Police (Investigation) SAS Nagar and after conducting the inquiry, he submitted report vide no.180/5/S./Sp (Investigation dated 25.11.2023) to your good self. On perusal of this report, it has come to the light that the complainant Karamjit Singh son of Ajaid Singh is having total land measuring 53 kanals 18 marlas in village



Palheri, hadbast no.173 Tehsil Kharar comprising in Khewat No.119/115, Khatuni No.122, Khasr no.17//16 (8-0), 17//17 (6-14), 17//18 (15-16), 17//23 (7-6), 17//24 (5-8), 17//25 (7-16), 17//31 (0-17), 28//7 (8-0), 28//14 (4-1) and without consent of the applicant, the officials of the Indian Cooperative House Building Society namely Suresh Kumar Bajaj had prepared bogus consent latter of the complainant for obtaining CLU, in which forged signatures of the applicant as Karam Singh were made. Similarly, bogus signatures and thumb impressions of 14 other people were put in a well planned conspiracy and these forged consent letters of their land were prepared without their consent and it has been found that these were forged to obtain CLU and by forging the signatures, the consent letters were prepared in the year 2014 but the opposite party after joining the investigating failed to produce any record or any evidence. From it is clear that the office bearers of the company had forged the documents and have committed fraud with the real owners. Apart from it, the father's name of the witnesses have also been wrongly mentioned in the consent letters so that the original witnesses may not be verified. So, it is mentioned to register FIR against the office bearers of the opposite party-Indian Cooperative House Building Society Suresh Kumar Bajaj (President), Ashish Kamra (Vice-President), Ashsish Sehgal (Secretary), Rajesh Girdhar (Cashier) under Sections 406, 420,, 467, 468, 471, 120 IPC and for conducting investigation. This inquiry report was sent to the DDA legal by the then Senior Superintendent of Police, District SAS Nagar. DDA Legal, SAS Nagar vide letter No.08/D.D.A Legal dated 09.01.2021 raised objections on this report and stated his report that the application of the applicant, documents, statement and inquiry of the inquiry officer Superintendent of Police



(Investigation SAS Nagar Report No.180/5 S.S.P., Investigation dated 25.11.2020 has been proved. As per my opinion, the officials of the authority, to whom these consent letters were submitted be also joined in the inquiry and certified copies of the consent letters be obtained from them and detailed statements are required to be recorded. He also submitted that FSL report regarding these forged consent letters be also obtained and witnesses of the forged consent letters be also joined in the inquiry so that the true facts may come on record and correct legal opinion in this regard can be given. Thereafter, the inquiry was again marked to Sh. Vikram Brar, P.P.S. Superintendent of Police Kharar-2, Mullanpur, SAS Nagar but the applicant party and the opposite party failed to produce the original copies of the documents used for obtaining CLU and nor original copies of these consent letters for obtaining CLU are available in the GMADA Department. So, the consent letters used for obtaining CLU cannot be verified and a report in this regard was submitted by him vide his office letter no.404/5S/D.S.P. Kharar dated 13.12.2021 to the then Senior Superintendent of Police, District SAS Nagar and the same was sent to DA Legal SAS Nagar Mohali for legal opinion. Sh. Sanjeev Batra, District Attorney (P) SAS Nagar vide his letter no.2482/D.A.S.A.S Nagar dated 15.12.2021 has stated that no facts regarding misappropriating or commission of fraud to usurp the land of the applicants has come on record by the office bearers of the Society. Today also, they are ready to pay the enhanced market rate to the applicants. So, in my opinion no offence is made out against the office bearers of the Society. Due to it a recommendation was made by DA (P) Legal, SAS Nagar to consign the applications submitted by the applicants. On the basis of this opinion, the then SSP consigned these



applications to the record room on 23.12.2021. Conclusion report: On the basis of the inquiry conducted till date, it has been found that the applicant has submitted application to Senior Superintendent of Police District SAS Nagar bearing application no.709/P.S.P. dated 26.02.2020 and application no.1580/Special/S.S.P. dated 24.11.2020 for misappropriating the land of the land owners by preparing forged documents and tried to obtain CLU for getting approval of colony from GMADA to sell it further by The Indian Cooperative House Building Society Suresh Kumar Bajaj (President), Ashish Kamra (Vice-President), Ajay Sehgal (Secretary), Rajesh Girdhar (Cashier). These applications were inquired into in the year 2020 by different officials. The then Superintendent of Police (Investigation) District SAS Nagar had recommended for registration of the FIR for preparing forged documents and for further selling their land by obtaining CLU and a recommendation was made to Station House Officer Mullanpur, SAS Nagar on 24.11.2020 for registration of FIR against the office bearers of the Indian Cooperative House Building Society namely Suresh Kumar Bajaj (President), Ashish Kamra (Vice-President), Ajay Sehgal (Secretary), Rajesh Girdhar (Cashier) under Sections 406, 420, 467, 468, 471, 120 IPC. But DDA Legal, District SAS Nagar raised objections and these applications as the consent documents were not got verified with original copies by SL Phase-4 Mohali. But the objections raised by the DDA Legal, District SAS Nagar Mohali could not be complied with because the consent letters or original documents could not be obtained from the department and as such, the signature on the forged documents could not be verified. Due to it the above said applications were consigned to record room. But from the inquiry conducted by you till date, it has transpired that the



consent letters submitted in GMADA, Rehra Department have been stated to be forged by the applicants. The original copies of these consent letters have not been obtained. Apart from it during the previous inquiries, the officials of the company also failed to produce the original documents/consent letters. From it, the matter appears to be suspicious. It appears that the office bearers of the Indian Cooperative House Building Society namely Suresh Kumar Bajaj (President), Ashish Kamra (Vice-President), Ajay Sehgal (Secretary), Rajesh Girdhar (Cashier) in connivance with each other prepared forged consent letters of the applicant to usurp their land and obtain CLU. From it, it is clear that the office bearers of the Indian Cooperative House Building Society namely Suresh Kumar Bajaj (President), Ashish Kamra (Vice President), Ajay Sehgal (Secretary), Rajesh Girdhar (Cashier) have committed offences under sections 420, 467, 468, 471, 472, 120-B IPC. Apart from it as per the direction given by the Hon'ble Supreme Court of India in 'Lalita Kumari Vs. Govt. of UP and Others 2013', the FIR is required to be registered and investigation is required to be conducted. So, if approved, FIR be registered against the office bearers of the Indian Cooperative House Building Society namely Suresh Kumar Bajaj (President), Ashish Kamra (Vice-President), Ajay Sehgal (Secretary), Rajesh Girdhar (Cashier) under Sections 420, 467, 468, 471, 472, 120-B IPC and investigation be conducted. Apart from it, during investigation, if involvement of any other person is found then requisite action shall be taken against him. An appropriate order in this regard be issued to Station House Officer, Mullanpur District SAS Nagar. The report is submitted. Sd/- Amandeep 19/11/2022, Superintendent of Police (Investigation) District SAS Nagar."

**FACTS**

3. The succinct factual narrative relevant for the disposal of the instant petition is that a Society in the name of Indian Cooperative House Building Society (hereinafter referred to as the Society) came to be registered under the Societies Registration Act. Amongst the members of the said Society, in compliance of the Bye-Laws of the said Society, election took place in which the petitioner was elected as the President of the said Society. The co-accused-Ajay Sehgal in the FIR was elected as a Secretary. Ashish Kamra, who has since passed away on 25.10.2021, was elected as Vice President whereas Rajesh Girdhar was elected as Cashier of the Society.

3.1 As per the allegations in the FIR, the alleged case set up by the complainant is to the effect that in order to obtain Change of Land Use (hereinafter referred to as 'CLU'), officials of the Society including the petitioner submitted documents in the shape of consent letters executed by the complainant Karamjit Singh and certain other landowners to GMADA, which were forged and fabricated in as much as, they never executed the same. The complainant-Karamjit Singh along with certain other landowners approached this Court through CRWP-9767-2022. The said writ petition came to be dismissed by the Co-ordinate Bench of this Court vide order dated 02.02.2023 (Annexure P-5) with costs of Rs.1 lac being misconceived and not maintainable. However, vide order dated 03.05.2024, the Hon'ble Supreme Court set aside the said order dated 02.02.2023 and remanded the matter back to this Court and the same is being heard by the Hon'ble Division Bench and is now pending for adjudication for 10.09.2024.



3.2 That on 19.02.2018, GMADA issued License No.27/2018 in favour of the Society to develop a residential colony over 108.58 Acres of land falling in two villages i.e. Rehmanpur and Palheri under the provisions of Punjab Apartment and Property Regulation Act, 1955 (hereinafter referred to as PAPRA). The said licence was issued on the basis of CLU granted by the Department of Town & Country Planning in favour of the Society on 03.06.2016. It is alleged that while obtaining the said CLU, photocopies of the consent letters of certain land owners including that of complainant Karamjit Singh were produced by the promoter i.e. the Society and the said consent letters are forged and fabricated documents. The licence granted in favour of the Society was initially valid till 19.04.2023 but while granting extension for a period of two years till 19.03.2025, promoter was mandated to acquire 100% title of land within the period of six months.

Submissions of learned Senior counsel for the petitioner

4. Learned Senior counsel has vehemently argued that licence granted in favour of the promoter i.e. the Society stands cancelled whereas with regard to CLU, Society has undertaken to leave the land in question of the complainant and other complaining landowners and to include some other equivalent piece of land. This is also matter of fact that the complainant as well as the other landowners who alleged that the consent letters which are alleged to have been executed by them and have been produced by the Society at the time of obtaining CLU are forged and fabricated documents, continue to be the owners in possession of their respective lands.



4.1 Learned Senior counsel further contends that in terms of the Clause 41(iv) of the Bye-Laws of the Society, it is the Secretary alone who is authorized to sign on behalf of the Society and to conduct correspondence. Not only in pursuance to the said Clause 41(iv) of the Bye-Laws of the Society but even otherwise, right from the date of applying for CLU before various authorities i.e. PUDA, GMADA, Department of Town & Country Planning, RERA, Department of Cooperative Societies, Punjab, it was the then Secretary Ajay Sehgal, who is now the President of the Society alone who had been doing the correspondence and submitted the documents on behalf of the Society including the photocopies of the allegedly forged and fabricated consent letters to GMADA.

4.2 He further submits that it is the own case of the prosecution that it is merely the photocopies of the consent letters, which are alleged to be forged, were submitted by the Society to GMADA. As per the law which is well settled, no prosecution can be launched merely on the basis of photocopies of the documents. Even otherwise, as submitted above, since the complainant and other landowners who alleged that the consent letters in their names have been forged and fabricated, continue to be the owners in possession of their respective lands, commission of no offence whatsoever is made out.

4.3 He also contends that keeping in view the totality of the facts and circumstances, mentioned above, especially the age of the petitioner i.e. 72 years, kind indulgence of this Court is sought to grant him anticipatory bail in the said FIR. Reliance is placed upon '*Siddharam Satlingappa*



***Mhetre vs. State of Maharashtra and others'* {2011 (1) RCR (Criminal) 123}.**

Submissions of learned counsel for the complainant

5. Learned counsel appearing for the complainant has opposed the petition filed by the petitioner and has submitted that the petitioner is involved in a multi crore land scam and is not entitled to any relief. He further submits that the petitioner alongwith co-accused Ajay Sehgal are the masterminds of well-planned criminal conspiracy webbed to grab the highly precious commercial land of the complainant, situated in the vicinity of Chandigarh, at throw away prices. The petitioner and co-accused are very manipulative people who have left no stone unturned to execute this multi crore land scam. They have managed the entire departments of real estate regulatory authorities in Mohali, be it DTCP, GMADA or RERA. Even local police, certain ministers of Punjab Government and revenue officials are acting as per their wishes. The custodial interrogation of accused-petitioner is very much necessary because the forged consent letters are still not traced.

5.1 He further submits that it is only after filing of CRWP No.9767 of 2020 by the applicants that report was called by this Court from the DGP, Punjab and Director Bureau of Investigation Punjab, Chandigarh, who reported after lodging the FIR that *prima facie* case is made out against the accused persons. Further, even after lodging of FIR on 19.11.2022, they managed the investigation agency, who did not arrest accused Ajay Sehgal upto 11.07.2024 and the petitioner till date. It was that very existing material (which petitioner is saying was consigned by the police) on the basis of

which this FIR has been registered after the intervention of this Court. He



further places reliance upon the order passed by Hon'ble Supreme Court in case of "*Srikant Upadhyay & Ors vs. State of Bihar and another*", SLP (CrI) 7940 of 2023" and keeping in view the observations made by Hon'ble Supreme Court, the petitioner is not entitled to concession of anticipatory bail.

Submissions of learned State counsel

6. Learned State counsel submits that as per the investigation conducted in the present case, the petitioner was actively involved in all the proceedings/dealings/management of the Society. The role of the petitioner was ascertained from the record which was procured during the investigation from the record keeper of the Society, as per which petitioner was a signatory in the resolution passed by the Society, thus, the petitioner was involved in all the activities of the society.

6.1 He further submits that as per the record obtained from the SAS Nagar Central Co-operative Bank Ltd. SAS Nagar, the petitioner is a joint account holder in the account of the Society. It is also contended that PO proceedings have been initiated against the petitioner and keeping in view the seriousness of the offences the petitioner is not entitled to the benefit of anticipatory bail.

Analysis

7. For a proper consideration of the aforesaid contentions and allied questions, it is only appropriate to refer to certain relevant decisions.

7.1 The Hon'ble Supreme Court in "*Pratibha Manchanda and another vs. State of Haryana and another, 2023 LiveLaw (SC) 514*" has



“16. It goes without saying that the alleged offences of forging documents for transferring ownership of land worth crores of rupees are grave in nature. Hence, while it is extremely important to protect the personal liberty of a person, it is equally incumbent upon us to analyze the seriousness of the offence and determine if there is a need for custodial interrogation.

17. In *Siddharam Satlingappa Mhetre v. State of Maharashtra*, this Court carefully considered the principles established by the Constitution Bench in *Gurbaksh Singh Sibbia v. State of Punjab* case. After a thorough deliberation, this court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

- (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (iii) The possibility of the applicant to flee from justice;
- (iv) The possibility of the accused's likelihood to repeat similar or other offences;
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- (vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.

xxx xxx xxx”

18. In *Sushila Aggarwal v. State (NCT of Delhi)*, the Constitution Bench reaffirmed that when considering



applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.”

7.2 It is thus obvious from the catena of decisions dealing with anticipatory bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438 Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant.



7.3 It may also be observed that PO proceedings have already been initiated against the petitioner. The Hon'ble Supreme Court in ***Criminal Appeal No.1552 of 2024 (Special Leave Petition (Crl.) No.7940 of 2023)*** dated 14.03.2024 titled as ***"Srikant Upadhyay & Ors vs. State of Bihar and another"*** has held that when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. The relevant part of the said judgment reads as under:-

"We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. ***At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power.*** Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the Interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."

7.4 From the chronology of events narrated above, it is evident that the petitioner along with the other co-accused prepared bogus consent letters of the complainant and land owners for obtaining CLU in a well planned conspiracy and forged consent letters of their land were prepared. A perusal of the records also reveal that the names of the father of the witnesses were also wrongly mentioned in the consent letters so that the original witnesses may not be verified.

8 To unearth the true dimension of the alleged offence, the custodial interrogation of the petitioner is required and keeping in view the serious nature and magnitude of the alleged offence which involves a multi crore scam and also considering the aspect that proclamation proceedings have been initiated against the petitioner, this Court is of the considered opinion that petitioner is not entitle to the concession of anticipatory bail.

9. Accordingly, the petition is dismissed.

(KIRTI SINGH)
JUDGE

05.09.2024
Kapil

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No