



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42383-2024

DECIDED ON: 30.08.2024

BALWANT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.0198, dated 02.08.2024, under Sections 420, 467, 468, 471 IPC added later on, registered at Police Station Jandiala, District Amritsar Rural.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To, Deputy Commissioner Amritsar, (1) Hon'ble D.G.P. Punjab (2) Inspector General of Police Border Range, Amritsar (3) Worthy Senior Superintendent of Police, Amritsar-Rural. Subject:- Application against Balwant Singh, Member Panchayat son of Joginder Singh resident of Akalgarh Dhapiyan in connivance witness Surjit Singh son of Charan Singh and Davinder Singh son of Heera Singh, Karam Singh, Draftsman for preparing fake Will and got approved documents from Revenue Department on the basis of fake Will and committed cheating -

Regarding registration of FIR. Sir, The applicants submit as under:- (1) That we, Manjit Singh son of Raghbir Singh, Satnam Singh son of Harjit Singh, Sandeep Singh son of Kashmir Singh are residents of Akalgarh Dhapiyan, District Amritsar, Police Station Jandiala Guru and do agriculture business. (2) That our father and others were six brothers and amongst them Balwinder Singh son of Surta Singh died on 18.08.1998. That above said Balwinder Singh during his life time never executed any will. (3) That Balwant Singh son of Joginder Singh got prepared a fake WILL dated 23.02.1995 and on the basis of said WILL got approved intkal No.3140. That when we came to know about this incident, then we applied for copy of intkal and came to know that intkal had been got approved on the basis of WILL dated 23.02.1995. (4) That to obtain copy of WILL we applied in the office of Head Registry Clerk, then it was proved that WILL is totally fake. In this regard, Revenue Department (HRC) reported that such WILL has not been registered in our record from which it is proved that WILL is totally fake. The copy of report made by Head Registry clerk is attached. (5) That this WILL has been prepared in connivance with witness and Draftsman. That fake WILL has been got prepared to cause loss to us and to gain for self. The above said Balwant Singh in connivance with witness have committed cheating with us. (6) That we face to face asked Panchayat alongwith Lambardar Pargat Singh, Harjinder Singh, Nirmal Singh and above said accused Balwant Singh about above said fake WILL, then he said that you can do whatever you like. Though I have got prepared fake WILL but I am not going to do justice with you. Rather, on the contrary he spoke wrong to us and said that I have to get transferred land of the share of Balwinder Singh in my name. Therefore, it is

requested that appropriate legal action against accused be taken. We shall be grateful to you. Thanking you. (1) Manjit Singh son of Ragbir Singh (2) Satnam Singh son of Harjit Singh (3) Sandeep Singh son of Kashmir Singh, Village Akalgarh Dhupian, Tehsil and District Amritsar, Mob No. 75085-71215, M.No.97819-27934. Office of Sub Divisional Magistrate Amritsar-1, No. 4431 dated 26.06.2023, Branch JSS. The inquiry of the above said application was conducted by Sub Divisional Magistrate, Amritsar-1 who submitted his report through Deputy Commissioner Amritsar (Complaint Branch) vide No.JS Stenographer/930 dated 07.08.2023 and its conclusion report is as follows. Conclusion report:- On the basis of record placed on file and statements have been gone through in depth, the undersigned has reached to the conclusion that Balwant Singh son of Joginder Singh resident of Akalgarh Dhupian on the basis of fake WILL document No.4837 dated 23.02.1995 Jilad No.160 Page No.72 the property of Balwinder Singh son of Surta Singh resident of Akalgarh Dhupia by getting entered intkal No.314 wrongly got approved transfer of land. This fact had come in original Jambandi. During hearing Sh. Balwant Singh was asked to produce original WILL but he did not produce the original WILL and to save himself from producing original WILL, he levelled allegations against the present Patwari Sh.Amanpartap Singh of Akalgarh Dhupian and applicants that they have misplaced the original Will. If the WILL of Balwant Singh had been misplaced by Sh. Amanpartap Singh, Patwari and opposite side, then he should have made complaint regarding misplacement of WILL before the present application. But Balwant Singh had not made any complaint regarding misplacement of WILL before the present complaint. Since Balwant Singh did not submitted

original WILL, for the verification of vasika no.4837 dated 23.02.1995 sought certified copy from District Revenue Officer, Amritsar (HRC Branch). As per report No.HRC/148 dated 28.07.2023 of District Revenue Officer Amritsar (HRC Branch), vasika no.4837 dated 23.02.1995 as per property Jilad No.169 page 73 has not been certified. Similarly, Sh. Balwant Singh son of Joginder Singh resident of Akalgarh Dhupian by preparing fake document no.4837 dated 23.02.1995, is guilty of wrongly got approved the wrong no.3140 of property of his uncle Balwinder Singh son of Surta Singh of village Akalgarh Dhupian by wrong means and it is recommended that legal action be taken against him. The applicant can initiation legal proceeding for the cancellation of intkal no.3140 in the Court of competent jurisdiction. Report is submitted for appropriate action. Sd/- Sub Divisional Magistrate, Amritsar-1. "Worthy Deputy Commissioner, Amritsar vide letter no.CMFOO/Steno/181 dated 04.07.2023 sent the above said application alongwith report submitted by Sub Divisional Magistrate, Amritsar-1 alongwith inquiry file to Senior Superintendent of Police Amritsar for appropriate legal action."

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner contends that the dispute involved in the instant FIR is civil in nature but has been given a criminal colour by the complainant. He further contends that the petitioner is the cousin of the complainant and their fathers are real brothers. It has been asserted on behalf of the petitioner that the dispute being raised by the complainant is with regards to the share of deceased Balwinder Singh, who

is the real uncle of the petitioner and the complainant, who had already executed a legal and valid Will dated 23.02.1995 in favour of the petitioner bequeathing his entire property upon him. He further contends that the said Will was in the knowledge of the complainant and all other family members but in order to usurp the property of deceased Balwinder Singh, the complainant has got the present FIR registered against the present petitioner and his father Joginder Singh. It has been argued on behalf of the petitioner that he is ready and willing to join the investigation and cooperate with the Investigating officer.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the prayer for grant of anticipatory bail with the assertion that the petitioner along with his father and other persons forged the alleged Will dated 23.02.1995 purported to have been executed by deceased Balwinder Singh in favour of the petitioner to get his entire estate.

4. **Analysis**

Be that as it may, considering the submissions made by respective parties and the fact that the dispute in question is civil in nature but has been given a criminal colour by the complainant just to usurp the property of deceased Balwinder Singh added with the fact that the petitioner is ready and willing to join the investigation and cooperate with the Investigating Officer.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating

Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioners shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

30.08.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No