

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41929-2024.doc (O&M)
Decided on 12.09.2024

Neha Dhaliwal & Anr.
... Petitioner

VS.

State of Punjab
... Respondent

CRM-M-44559-2024

Lakhvir Singh & Anr.
... Petitioner

VS.

State of Punjab
... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. PS Ahluwalia, Advocate,
Mr. Siddarth Sihag and Mr. Jaiveer Singh, Advocate
for the petitioners in CRM-M-41929-2024.

Mr. Gautam Dutt, Advocate
for the petitioners in CRM-M-44559-2024.

Mr. Ashutosh Gupta, Advocate
for the complainant.

Sandeep Moudgil, J.

Relief Sought

- (1). This order shall dispose of CRM-M-41929 & 44559-2024 as the petitioners are seeking anticipatory bail under in the same FIR. For orders, CRM-M-41929-2024 is treated as the lead case.
- (2). This petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the petitioner seeking anticipatory bail in case FIR No.510 dated 24.12.2023 (Annexure P1) under Sections

406/420/465/467/468/471/120-B IPC registered at Police Station Sohana, District SAS Nagar.

(3). The prosecution story as narrated in the FIR is reproduced as under:-

“The Additional Chief Administration, GMADA, Room no. 226, PUDA Bhawan, Sector 62 Mohali, SAS Nagar 160062, Subject: Cancellation of CLU obtained by Nitin Khetan (for Funex Infra Pvt Ltd.) who mislead your office using forged documents of Rajmohan Kaur (Trust) - Kindly scrutinize documents of CLU (vide letter no: 2095 DTP SAS Nagar dated 03.11.2022) on urgent basis. Respected Sir, Since past one month have been running pillar to post, visiting various offices of GMADA and facing total non-cooperation from various GMADA offices located at PUDA Bhawan, Sector 62, Mohali (SAS Nagar). A short while ago, on my regular visits to my land located at village Kailon, Mohali, having khata no. 14/14, 119/144, khasra no. 38//2 (8-0), 3(8-0), 8(1-15), 10(7-16), 36//19/1 (2-2), 23(8-0), 22(8-0), 38//9(4-4), 38//11(2-0), 39//15/2(2-17), measuring 49 Kanal 9 Marla owner Rajmohan Kaur, The Anabhau Foundation Charitable trust, I saw a labourer holding map of "Khetan English County" Project Map and pamphlet showing CLU (vide letter no: 2095 DTP SAS Nagar dated 03.11.2022) at Sirhind-Chunni Road near our land. When I inspected the map, it was showing our land as part of "Khetan English County" Township project by Funex Infra Private Limited which had plots, parks and roads. Upon asking the labourer who gave them permission to show our land as part of their project he ran away. Since then I have been visiting various offices of yours but no one has answered my queries for reasons best known to them. I never gave any permission to anyone to include my land in their project. It seems Nitin Khetan

for Funex Infra Private Limited / Khetan Realty has obtained CLU for their project using forged documents in your office. Kindly provide to me a copy of such documents so I can initiate suitable action as per law. If still no action is taken by your office, then I will have no other option but to go to Police Officials, Punjab Vigilance Bureau and the Hon'ble Court against you as it is my suspicion that Nitin Khetan carried out this fraud using forged documents and GMADA issued the CLU without verifying the owner (Rajmohan Kaur, Trust) of the land, neither did you verify the persons whose consent letters was used, nor any official of your office informed the owner (Rajmohan Kaur, Trust) about it. I hope you will take my final request into consideration and take prompt action. Any delay in action by you can cause massive damage to my rights and it my humble prayer to you to please do not waste one more second and handle my request on a priority basis. look forward to hearing from you and request you to send all communication my mobile no. 9569999556 through call / Whatsapp and email es.ekjotsingh@gmail.com. I will only accept communication/notice/queries sent at the above listed by your office as it will allow me to communicate...”

SUBMISSIONS:**On behalf of the petitioner**

(4). Learned counsel for the petitioner has contended that the allegations against the petitioners is based upon the allegation that the petitioners are not authorized to issue the resolution dated 08.12.2021 (Annexure P2) and letter of consent dated 22.02.2023 (Annexure P3) on account of them not being the trustees and/or chief patron of the trust and the petitioners are ready to hand over the original copy of the resolution (Annexure P2) for forensic examination.

(5). He submits that in fact the de facto complainant Mrs. Rajmohan Kaur had resigned from the trust on 19.05.2021 and she had no locus standi or interest into the affairs of the trust on the date of execution of the above resolutions (Annexures P2 & P3), however, she is insinuating that she never resigned from the Trust and the resolution dated 8.12.2021 and letter of consent have been issued without any jurisdiction or authority and as against her allegations, the said Rajmohan Kaur never challenged the validity of the said documents.

(6). It is vehemently urged that there are no allegations qua the petitioners in having any role for fraudulently obtaining CLU for the land of the trust and these allegations have been attributed against Kanwaljet Singh Walia, Director of M/s RKM Housing and Nitin Khetan, Director of M/s Funex Infra P.Ltd. and these accused persons have been already granted the concession of anticipatory bail by this Court vide orders dated 14.05.2024 and 05.08.2024 passed in CRM-M-24123-2024 and CRM-M-37340-2024, respectively.

On behalf of the respondents

(7). Notice of motion.

(8). On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab, accepts notice. Mr. Nitish Garg, Advocate has put in appearance on behalf of the complainant. They opposed the prayer made on behalf of the petitioners for grant of pre-arrest bail to them on the ground that the petitioners along with co-accused persons have forged the documents and committed fraud with the complainant. The Trust being a family Trust makes it unbelievable as claimed by the petitioners that there will be no Trustee from the said

family, which was there earlier and as such, a big fraud has been committed by them and the Trust deed, which was in existence creating the Trust, has been superseded by allegedly involving the persons outside the family of the Trust and by forging the documents.

(9). It is argued that it is highly unbelievable that the trustees of the Trust, who are all family members will sell or transfer their land without getting any consideration and there is no proof of any consideration being transferred to the original trustees or any of their family members inasmuch as the documents of the Trust and their resignation letters have been forged.

(10). Another argument raised on behalf of the complainant is that the family members remained trustees for almost 19 years and suddenly resign and total strangers to the family are appointed as trustees of the Trust whereas the original trustees did not pay any amount for the land which they purchased 19 years back. He further averred that the Power of Attorney executed by Rajmohan Kaur is not a forged document. In fact the petitioners has obtained the CLU on the basis of a forged consent letter purported to be given by the complainant.

Analysis

(11). The case projected and argued by the learned counsel for the petitioners is that the accused have been falsely implicated in the present case on the basis of the complaint sent by the subordinate officer of the GMADA, though the Chief Administrator, GMADA had rejected the complaint, which has been made the subject matter of the FIR. The specific allegations in the FIR are that the signatures of Rajmohan Kaur have been forged and the forged documents have been used. Before sending the letter for the

registration of the FIR, the detailed inquiry has also been conducted and the opportunity to the accused side to appear was given.

(12). As can be seen that while obtaining CLU in the year 2016, RKM Housing P.Ltd. produced the consent letter containing forged signature of Raj Mohan Kaur. Whether or not the petitioner had any role to play in obtaining the CLU issued in the name of RKM Housing P.Ltd. is yet to be ascertained and even if it is assumed that if any forgery was done in getting the CLU, even then the petitioner cannot be held liable.

(13). Surprisingly, if any forgery was done in getting the CLU, it is not understandable as to why Raj Mohan Kaur, alleging herself to be chief patron of the Trust, kept mum till 2023 and no objection was raised at the time when public notice was issued by the GMADA at the time of issuance and/or transfer of CLU to RKM Housing P.Ltd.

(14). As regards the resolution dated 15.06.2021 relied upon by the complainant, it cannot be said that vide the said resolution any trustee have resigned or any new members were inducted as new trustees. Moreover, the said resolution was never challenged.

Order

(15). Be that as it may, looking into the totality of the facts, this Court is conveniently of the view that a dispute has arisen out of Real Estate Business between the petitioner and the complainant and the allegation with regard to the forged and fabricated can be tested and examined by leading evidence at an appropriate stage during the course of investigation, thus, the custodial interrogation of the petitioner is not required.

(16). In view of the discussions made hereinabove as also the fact that the co-accused to the petitioners, namely, Nitin Khetan and Kanwaljit Singh Ahluwalia who are the main accused are already given anticipatory bail, the present petition is disposed of, with a direction to the petitioners to join the investigation within a period of one week from today. In the event of arrest, the petitioners be released on anticipatory bail subject to their furnishing personal bond/surety bond to the satisfaction of Investigating Officer/Arresting Officer. The petitioners shall also join the investigation as and when called upon to do so by the Investigating Agency and he shall also abide by the conditions, as envisaged under Section 438 (2) Cr.P.C. in letter and spirit.

(17). Ordered accordingly.

(18). However, it is made clear that in case the petitioners fails to join the investigation within a stipulated period, respondent-State would be at liberty to move an appropriate application for recalling of this order.

12.09.2024
V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge
Yes/No
Yes/No