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

102 (I) CRM-M-43169-2024
Date of Decision : September 13, 2024

RAM MEHAR -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

(II) CRM-M-44230-2024

ASHWANI KUMAR -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Manoj Pundir, Advocate with
Mr. Jitender Ranga, Advocate
for the petitioner (in CRM-M-43169-2024).

Mr. Chetan Mittal, Sr. Advocate with
Mr. Kanwal Goyal, Advocate and
Mr. Kunal Mulwani, Advocate
for the petitioner (in CRM-M-44230-2024).

Mr. Rajesh Gaur, Addl. A.G., Haryana.

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KULDEEP TIWARI, J. (ORAL)

1. The amenability of both these petitions for being decided through a common verdict originates from them being arising out of a common FIR, besides originating from common relief(s) being yearned therein.

2. To be precise, in both these petitions, the petitioners seek the concession of anticipatory bail, in case FIR No.766 dated 09.08.2024, under Sections 120-B, 420, 467, 468, 471 of the IPC, registered at P.S. Yamuna Nagar City, District Yamuna Nagar.

GIST OF THE FIR

3. The genesis of the present FIR is embodied in the complaint made by one Rakesh Kapoor (hereinafter referred to as the 'complainant'), whose roots are in India, but, presently holding citizenship of the United States of America. Succinctly stated, the allegations voiced in the complaint are that, when the complainant refused to sell his ancestral property, i.e. House No.196-R, situated at Model Town, Yamuna Nagar, therefore, in order to exert pressure upon him to sell it, the petitioner(s) threatened him to illegally grab the said property, by changing its ownership and by changing the record(s) in the Municipal Corporation concerned, with the aid of his co-accused/staff of the office of Sub Registrar concerned.

4. The relevant extract of the present FIR is reproduced hereunder:-

> *"….To, The Superintendent of Police, Yamunanagar. Subject: Complaint against Ashwani Kumar and staff of office of sub registrar and other officials involved in illegal grabbing of the properties and for preparing false documents of the properties of NRIs with a view to cheat them and trouble them and cause loss. Sir it is to bring to your kind notice that I am presently a citizen of USA, holding the overseas citizenship and am basically from the city of Yamunanagar, where my parents and my grandpa have been living. My father was an Air Force Officer and was deputed in the Indian Air Force as a doctor and my father owned a property in model town Yamuna Nagar, and also at any other places throughout the country. My father had been using the property of model town, which is bearing number 196-R Model Town and is situated near the back gate of MLN College, Yamunanagar, adjoining the newly built Baba restaurant. After the death of my father, as per the registered Will, I became the owner thereof. The property initially was owned by my grandfather by virtue of the deed of conveyance executed in favour by the then deputy commissioner as per law. Thereafter, my grand-*

father had given the property to my father, and there has been no dispute in the family in any manner regarding the ownership of the property devolving from my grandfather to my father and then to me. Even the municipal record is accordingly since beginning earlier in the name of my grandfather and now it has come to the name of my father Late Wing Commander G D Kapur. The property has always been under our ownership and we have never sold the property in any manner. I also wish to inform you that the property was earlier even under tenancy of the army who was having their office of the district in our property. The property was even fetching rent which was taken by us. That in the month of December 2023, I visited Yamunanagar as I was in India those days, and I came to my property and I got done certain repairs, and even the old main gate was being changed, and at that time, some person who I did not know, stopped in front of my property on his motorcycle and introduced himself to be Ashwani Kumar and told that he is dealing in property and enquired from me if l am interested in selling my property to which I openly and clearly refused him that I am not intending to sell my property as I have great love and affection towards the same belonging to my grandfather and my father, and then devolving upon me. I have my roots in Yamunanagar in this house, and I cannot even think of selling the same. Thereafter, I had gone back to the USA in the month of December 2023 and was living there happily. I again have come to India and have come to Yamunanagar and I came to know that some land mafia which is working in your district is trying to change the property ownership and is illegally trying to change the records in the municipal corporation with a view to pressurize me to sell the property to them, though I have never intended nor even talked with anyone for selling my property and my above fear came true when I came to know from some of the relatives that the property which belongs to me exclusively, is being tried to be occupied by forging and fabricating the documents. I have come to Yamunanagar three days ago and I went to my property and I opened the gate and same person whose name is Ashwani Kumar property dealer met me and at that time, Mr. Hemant along with me and he told that I should sell the property or they will prepare the false and fabricated documents as they told *that they have links with some employees of the office of the registrar and one name of Mr. Ram Mehar was told to me by him that he is some employee working in the office of the registrar who deals in changing the records and documents of the properties very easily and I was further surprised when I was openly threatened that my property which is under my possession shall be illegally grabbed in my absence, and thus, though I have even contacted my embassy in Washington and reported them the above incident, but I deem it proper to bring to your kind information that such actions and such threats of such persons should be immediately checked and the above person named Ashwani Kumar and his associates may kindly be immediately called upon and asked to explain as to why they are threatening me and you are also requested to kindly check such acts and threats. It has also been brought to the notice by the above accused that even the sub registrar is their own person and even they can do anything through him. Such type of threats are totally uncalled for in all manners and no person at the right to openly threat. A person like me who is a senior citizen to sell his property or in the event of me, not accepting to sell my property, then to forge the documents with the help of the staff, working under the office of sub registrar or by this sub registrar himself. This is utmost serious offence in all manners. I have also been threatened that even the sub registrar is their associate and all the acts shall be done in such a manner that the properties do not remain under my ownership and I am deeply troubled, and so I am immediately requesting you for urgent action….”*

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PETITIONERS

5. In his beseeching the relief of anticipatory bail for the petitioner-Ashwani Kumar, the learned senior counsel submits that, the petitioner has been falsely roped in the present FIR and no offence is made out against him, inasmuch as, there is no allegation in the FIR that any document was ever forged in order to change the ownership of the complainant’s property, which is still under his ownership. In fact, the peti-

tioner is working as a property dealer and he appeared as a witness from purchaser's side, at the time of execution of Sale Deed No.3047 dated 26.07.2024, which pertains to House N.196-L and not the complainant's property, i.e. House No.196-R.

6. The learned senior counsel further submits that, the name of the petitioner- Ashwani Kumar did not surface in the initial disclosure statement made by the main accused Paramjit Kaur, rather he has subsequently falsely been nominated as an accused and that too without there being any documentary evidence suggestive of his connivance with other accused in forging of the alleged documents.

7. Furthermore, the learned senior counsel submits that, the complainant's property bears House No.196-R, whereas, the allegations of forging documents of ownership are levelled in respect of property bearing House No.196-L, therefore, there is no occasion at all for the complainant to foster any grievance with regard to someone else's property, especially when the original owner thereof, namely, Subhash Chand, has not made any complaint regarding execution of the sale deed (supra).

8. Concluding his arguments, the learned senior counsel submits that the petitioner-Ashwani Kumar is not the same person, who forged the municipal record and caused appearance as a witness at the time of execution of a G.P.A. by Manika Kaur in favour of Paramjit Kaur. Moreover, since the main accused has/have already been arrested, therefore, custodial interrogation of the petitioner-Ashwani Kumar is not required.

9. To lend vigour to his claim, as canvassed in the instant petition(s), the learned senior counsel also relies upon the following judg-

ments:-

(a) Mohammed Ibrahim & Ors. V/s State of Bihar & Anr., (2009) 8 Supreme Court Cases 751.

(b) Sheila Sebastian V/s R. Jawaharaj @ Anr., (2018) 7 Supreme Court Cases 581.

10. Insofar as petitioner-Ram Mehar is concerned, his counsel adopts the submissions made hereinabove by the learned senior counsel and in addition thereto submits that, there is no allegation against the petitioner-Ram Mehar that he is a signatory to any of the allegedly forged documents. He further submits that the petitioner-Ram Mehar is a government employee and he never worked as a property dealer.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

11. The above made submissions of the learned counsels for the petitioners are vociferously opposed by the learned State counsel. By drawing attention of this Court towards the details of investigation, as disclosed in the status report(s) dated 11.09.2024, he submits that there is sufficient material on record, thus corroborating the allegations against the petitioners.

CONCISE ANALYSIS OF THE STATUS REPORT / DETAILS OF INVESTIGATION

12. During the course of investigation, it revealed that the House No.196-R situated at Model Town, Yamuna Nagar is owned by the complainant, and, the House No.196-L situated in the same vicinity is owned by one Reeta Rani wife of Subhash Chand. In order to illegally grab the complainant's property, the petitioners in connivance with their co-accused, tampered the allotment letter dated 17.06.1953 and forged the order dated 13.09.1961, both issued by the Deputy Commissioner, Ambala, to

show that the allottee Dina Nath had sold the property (House No.196-L) to one Amarjeet Kaur (mother of accused Paramjit Kaur) on 18.09.1961, whereas, actually Dina Nath had issued a Power of Attorney on 03.07.2000, in favour of his son Devinder Nath, who then sold the said property to Reeta Rani and Subhash Chand on 10.07.2000. Tampering was done on the allotment letter (supra) to hide the crucial particulars like witness details, property details.

13. On the strength of the forged order dated 13.09.1961 (supra), accused Paramjit Kaur moved an application dated 12.11.2020 to the Tehsildar, Jagadhri, Yamuna Nagar, therein claiming her to be the sole legal heir of Amarjeet Kaur and also requesting to get the status of legal heir verified through the Patwari concerned. Accordingly, the Patwari concerned submitted a report dated 17.11.2020, thereby affirming Paramjit Kaur to be the sole legal heir of Amarjeet Kaur, whereas, in fact, Paramjit Kaur has three sisters and one brother and she never resided at the address given in the said application.

14. Not only this, accused Paramjit Kaur, in connivance with her co-accused, made a publication in local newspapers, thereby inviting objection(s) against insertion of her name in the record of Municipal Corporation pertaining to Property ID 1KEWLTW5/ 219C678U4 (House No.196-R), but, cleverly she did not mention the house number or location of the property. Finally, on 08.06.2024, the name of accused Paramjit Kaur was inserted qua Property ID of House No.196-R. It would be significant to record here that, for the period 2011 to 2024, there was no updation in the Municipal Corporation’s record regarding ownership of this property, but,

prior thereto the ownership of this property was recorded in the name of complainant's father Gurdas Kapoor.

15. Thereafter, accused Paramjit Kaur executed a transfer deed on 24.06.2024, in respect of the above property, in favour of one Manika Kaur. Then, said Manika Kaur executed a G.P.A. in favour of accused Paramjit Kaur on 25.07.2024, in the office of Sub Divisional Magistrate, Jagadhri. Finally, on 26.07.2024, a sale deed pertaining to the above property was executed *inter se* Manika Kaur (through her G.P.A. Paramjit Kaur) and Sushma Kwatra, Nidhi Garg, Manika Aggarwal, Richa Garg (through G.P.A. Ashwani Kumar/ present petitioner), for a sum of Rs.2,02,40,550/-. Interestingly, this sale deed embodies the property details as *"House No.196-L and Property ID No.1KEWLTW5/219C678U4"*, whereas, actually *"Property ID No.1KEWLTW5/219C678U4"* belongs to *"House No.196-R"* (complainant's property). Moreover, the sale price of this property has been undervalued in the sale deed, inasmuch as, it has been sold for an actual consideration of Rs.8.58 crores.

16. Consequent upon registration of the present FIR, accused Paramjit Kaur was arrested from Aurangabad (Maharashtra) on 10.08.2024. Upon her interrogation, a disclosure ensued that she, in connivance with one Islamudeen @ Islam and on the basis of forged documents, sold the House No.196-R, Model Town, Yamuna Nagar, to Sushma Kwatra, Nidhi Garg, Manika Aggarwal and Richa Garg, vide Sale Deed No.3047 dated 26.07.2024, for a sale consideration of Rs.2,02,41,000/-. Out of this amount, she transferred an amount of Rs.1,75,00,000/- to Islamudeen @ Islam. Subsequently, she also got recovered two gold bangles weighing ap-

prox. 40 grams, which were taken into police possession, and, an amount of Rs.96,83,306/- was seized from her bank account.

17. Thereafter, accused Mohd. Ramzan was arrested on 20.08.2024, who disclosed that, since he is proficient in reading Urdu language, therefore, he used to visit his elder brother Islamudeen @ Islam to check old records of properties in the Court Complex. He, in connivance with his brother Islamudeen @ Islam, Paramjit Kaur, property dealer Ashwani Kumar and Ram Mehar (petitioners), hatched a conspiracy and got sold the House No.196-R after preparing fake documents.

18. Accused Islamudeen @ Islam, who was arrested on 21.08.2024, made disclosure alike to the one made by his brother Mohd. Ramzan. He specifically confessed that he, in connivance with petitioners Ram Mehar, Ashwani Kumar and one Karnail, forged the allotment letter and on the basis thereof, they got recorded the name of Paramjit Kaur as owner of the above property in the municipal record and then got sold this property for a sum of Rs.8,58,00,000/-. Out of this sum, an amount of Rs.1,00,19,000/- was transferred in his account by Paramjit Kaur.

19. Thereafter, accused Imrana, who impersonated Manika Kaur at the time of transfer of property and execution of G.P.A., was arrested on 24.08.2024. Her interrogation resulted in a disclosure that, on 23.06.2024 and 24.07.2024, she went with her brother-in-law/Jeth Islamudeen @ Islam to Court Complex and got clicked photographs, in lieu whereof, she was given Rs.2,00,000/- by Islamudeen @ Islam. She also got recovered this amount of Rs.2,00,000/-, which was taken into police possession.

20. During the course of investigation, one Pradeep Garg son

of Charan Dass produced a pen drive on 26.08.2024, which was taken into police possession. This pen drive contained the call recordings, as occurred amongst him, Surinder Garg and Ram Mehar, wherein, Ram Mehar is confessing that he would get the amount of Rs.8 crores returned.

21. On 09.09.2024, the statement of Subhash Chand (owner of House No.196-L) was also recorded, wherein, he clearly stated that he never sold his property to any buyer, and that, he had purchased the said property from Devinder Nath in the year 2000.

REASONS FOR DISMISSING THE PRESENT PETITIONS

22. This Court has heard the submissions made by the learned counsels for the contesting litigants and also made a studied survey of the entire record. For the reasons to be assigned hereinafter, this Court does not deem it a fit and deserving case for granting the extraordinary relief of anticipatory bail to the petitioners.

23. The prime reason for forming the above inference generates from the hereinabove alluded to active roles played by the petitioners in commission of the present crime. *Prima facie*, the petitioners were instrumental in hatching a deep rooted conspiracy along with their co-accused to illegally usurp the complainant's property and in order to achieve this ill-design, they left no stone unturned, whether it be forging of documents, changing of municipal corporation's record, or, making impersonation before the authority concerned.

24. The status report filed by the respondent-State also makes revelations that, out of the fraudulently obtained sale consideration of

Rs.8,58,00,000/-, petitioner- Ram Mehar received Rs.2,00,00,000/- and petitioner- Ashwani Kumar received Rs.1,06,00,000/-.

25. Moreover, the call recordings (supra) and a photograph displaying son of the petitioner-Ashwani Kumar to be receiving a huge amount from the vendor concerned, also *prima facie* lend fortified vigour to the involvement of the petitioners in the present crime.

26. For all the reasons (supra), *prima facie* this Court is of the view that custodial interrogation of the petitioners is required, in order to:- (i) unearth the modus used by accused to obtain the original documents and then forge them; (ii) make recovery of cash and other articles/documents; (iii) unearth the unholy nexus between the accused and the public servants working in the municipal corporation and Sub Registrar's office.

FINAL ORDER

27. As an upshot of the discussion made hereinabove, this Court does not find any merit in the instant petitions and the same are **dismissed**.

28. However, anything observed hereinabove shall neither be construed to have any bearing on the outcome of the trial, nor the trial Court concerned shall be influenced by any of the observations recorded herein.

29. A photocopy of this order be placed on file of connected case.

(KULDEEP TIWARI)
JUDGE

September 13, 2024
devinder

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