

CRM-M-56280-2023

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 56280 of 2023
Date of decision: 09.01.2024

Mehant Sudershan Dass Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Umesh Aggarwal, Advocate
for the complainant.

PANKAJ JAIN, J. (ORAL)

1. Prayer in the petition is under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.144 dated 16.07.2023 under Sections 420, 467, 468, 471 of IPC registered at Police Station Gate Hakima, District Police Commissionerate, Amritsar.

2. As per the contents of the FIR, it has been alleged as under:

“ Sir, it is humbly submitted that I, Sanjeev Kumar S/o Late Shri Bua Dutta, am R/o House No.1458-S/13 Chowk Chintpurni, Amritsar. That as per the record of the WILL certified on 21.05.2002 vide document No.227, Bahi No.3, Jild No.1488, page No.9698, signed by Sub-Registrar, Amritsar, of Mahant Sudarshan Dass, follower Mahant Mohandass cannot sell the property of the Dera, copy of which is enclosed herewith. But the above accused, Mahant Sudarshan Chela Mohandas, R/o Gali Jagatram, Namak

Mandi, Amritsar, 2. Advocate Kuldeep Bawa, District Courts, Amritsar, 3. S. Kulwant Singh s/o S. Narain Singh, 4. Jatinder Kaur w/o S. Kulwant Singh, 5. Jaswinder Singh s/o S. Kulwant Singh s/o S. Kulwant Singh, 6. Harpreet Kaur w/o S. Jaswinder Singh, 7. Naveen Kumar S/o Chiman Lal, R/o Gali Gujran wali, 8. Premnath Passi s/o Ram Tirath Passi, Gali Sudh Singh, Thanedar, Moti Bazar, Amritsar in connivance with each other have executed the sale-deed of land pertaining to crores of rupees whereas the above land cannot be sold but the above accused got the sale-deeds executed by preparing fake documents and these sale-deeds have been executed by misleading the Revenue Department. This sale-deed has been executed on 14.10.2011 vide document No.7149, Jayad Bahi No.1, Jild No.11257 and committed fraud of crores of rupees. I came to know about this fake WILL on 06.01.2020, on which I applied for certified copy. On receipt of certified copy, I informed to the worthy A.C.P. S. Sukhjinder Singh, on which the worthy A.C.P. conducted its enquiry. But still no action has been taken against the accused persons. Mahant Sudarshandas also committed fraud with me which fraud has been established in your report dated 20.03.2020 (ACP-1230 19-3-18). The above accused persons, on the basis of above fake sale-deed are trying to sell the land to other persons. Kindly take legal action against these accused persons so that no other person can become victim of their fraud.”

3. Learned counsel representing the petitioner while praying for pre-arrest bail submits that whole of the case is based upon documentary evidence and thus the custodial interrogation of the petitioner would not be required. He further submits that the petitioner came into possession of the land in question on the basis of Will which has been placed on

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record as Annexure P-I dated 31.05.2022 executed by Mahant Mohan Das Beragi and as per the covenant contained therein, the petitioner has no right to sell the land and thus there was no reason for the petitioner to execute the sale deed. The sale deed was executed owing to ignorance and the petitioner being illiterate. In fact, the land was leased out and the money received by the petitioner is a leased money.

4. Learned counsel for the petitioner further submits that FIR in question is an act of vengeance as the complainant has repeatedly tried to dislodge the petitioner in civil litigation having failed thereto. The present FIR has been registered after 13 years.

5. Per contra, Mr. Tarun Aggarwal, Sr. DAG, Punjab for respondent No.1 as well as Mr. Umesh Aggarwal, Advocate for the complainant submits that the illegality of the act and the offence committed by the petitioner is evident from the fact that the petitioner very well knew that as per the Will, he had no authority to sell the land yet he had executed the sale deed and pocketed huge amount of money of Rs.33 lakhs. It is a case where in a property attached to Dera for the welfare of Dera and public at large has been usurped and embezzled by the petitioner for his personal use.

7. Having heard rival contentions and after going through records of the case, this Court finds that it is not a fit case for grant of pre-arrest bail.

8. Consequential rise in the price of lands has led to rise in such criminal matters wherein the immovable properties are being usurped sold illegally and the present case also belongs to the same species. The petitioner first executed the lease deed and thereafter, executed present

sale deed in favour of the lessee for a valuable consideration knowing well that he had no right to sell the land. Indeed, it was an act designed to secure the interest of the beneficiary of the sale deed and the petitioner in return benefited by pocketing amount.

9. The Apex Court in ***Pratibha Manchanda and another vs. State of Haryana and another, 2023(3) R.C.R (Criminal) 511*** while dealing with a somewhat similar allegations held as under:-

“xxxx xxxx xxxx

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 (2011) 1 SCC 694**, this Court carefully considered the principles established by the Constitution Bench in **Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565** 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.*

18. *In Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731, 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.*

xxxx xxxx xxxx

25. *Land scams in India have been a persistent issue, involving fraudulent practices and illegal activities related to land acquisition, ownership, and transactions. Scammers often create fake land titles, forge sale deeds, or manipulate land records to show false ownership or an encumbrance-free status. Organized criminal networks often plan and execute these intricate scams, exploiting vulnerable individuals and communities, and resorting to intimidation or threats to force them to vacate their properties. These land scams not only result in financial losses for individuals and investors but also disrupt development projects, erode public trust, and hinder socio-economic progress.*

26. *While we do not wish to comment further on this issue, we believe it is necessary to foil any trace of organised crime perpetrated by land mafia, through an unimpaired and unobstructed investigation.*

xxxx xxxx xxxx”

10. As per the settled law laid down by Apex Court in *Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565*, the Court while considering the prayer for pre-arrest bail has to consider as to whether the accusation appears to be actuated by *mala fides*, nature of seriousness of the proposed charges, the role attributed to the applicant and the probabilities of securing presence of the applicant during the course of trial and as to whether there is any apprehension that the applicant will tamper with the witnesses or evidence.
11. The nature and the seriousness of the allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.
12. In view of the above, the petition is dismissed.
13. Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

(PANKAJ JAIN)
JUDGE

09.01.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No