

In the Court of Mrs. Rashmi Sharma,
Additional Sessions Judge,
Ludhiana/UID No.PB0201

CNR No.	CIS Case No.	Instt. No./Date	FIR No. /date	Under section	Police Station	Date of Order
PBLD010078642020	BA/2796/2020	8.5.2020.	049, dated 5.3.2015.	406, 420, 120-B IPC..	P.S Dakha, Ludhiana .	10.6.2020

State

versus

Amarjit Singh, aged about 84 years, son of Gurnam Singh, r/o village Rasulpur Jandi, Tehsil Jagraon, District Ludhiana, at present residing at House No.519, Street No.10, Satjot Nagar, Near Sai Baba Mandir, Dugri, Ludhiana.

.....applicant/accused

Bail application under Section 438 Cr.P.C.

Present: Sh. R K Sharma, Advocate, for applicant/accused through his mobile number 9888481262 to the mobile number of reader of this court 9914336660

Sh. S.S. Haider, Special/Addl.PP for the State

Sh. Sarabjit Singh Chatrath, Advocate, for complainant.

ORDER

Applicant/accused has filed first bail application under Section 438 Cr.PC seeking relief of anticipatory bail in the above referred FIR. Notice of the bail application was given to the State in pursuance of

which police record was produced.

2. Bail application under consideration has been moved on the grounds that applicant/accused is innocent and has been falsely implicated in present FIR on false complaint moved by Harpreet Singh by claiming himself as adopted son of Baldev Singh as alleged attorney holder of Jagjit Singh alias Joe Sekhon, son of Mukhtiar Singh, r/o California, U.S.A. In fact, said complainant Jagjit Singh alias Joe Sekhon had previously filed a complaint dated 10.10.2014 to Inspector General of Police, NRI, Punjab, which was marked to SHO NRI, Ludhiana by levelling allegations that he has given the amount of Rs.1,80,000/- to the applicant/accused which were not returned by the applicant/accused to the complainant Jagjit Singh and in the said complaint there was no allegation against the present applicant/accused that he committed the offence of criminal conspiracy along with his son Harpreet Singh in committing the alleged offence of fraud and criminal breach of trust with above said Jagjit Singh. Since no offence was made out against the applicant/accused in the previous complaint dated 10.10.2014, the present applicant/accused has been falsely implicated in the present case. Applicant/accused is 84 years of age. In fact, the dispute, if any, is of civil in nature. No offence is made out against applicant/accused, his daughter in law Rajinder Pal Kaur and his son Harpreet Singh. Applicant/accused and other co-accused have been declared innocent in the further investigation conducted in the above said present false FIR. The present false FIR has been got registered by the complainant Jagjit Singh at the instigation of Satwant Kaur, who is

real sister of complainant Jagjit Singh through above said Harpreet Singh, who is claiming himself to be adopted son of Satwant Kaur and her husband Gurdev Singh as the said Satwant Kaur wanted share in the property of her mother Mohinder Kaur and she was not in favour of execution of transfer of ownership deed by Harpreet Singh, the son of applicant/accused as attorney holder of Mohinder Kaur in favour of her daughter in law Sukhwant Kaur, the widow of her deceased son namely late Sh. Hakikat Singh. Applicant is ready to join the investigation and undertakes to abide by the terms and conditions, imposed by the court, if granted bail. As applicant has reasonable apprehension of arrest in present FIR, benefit of anticipatory bail be granted to him.

3. On the other hand, learned Addl.P.P for the State contested the bail application on the grounds that there are serious nature of accusations against the applicant/accused of having cheated the complainant of crores of rupees. Requisite sale consideration in respect of sale of the land of complainant was not fully deposited in his account and money was again withdrawn even from the deposited amount. Complainant was allured by applicant/accused in conspiracy with the co-accused regarding sale and purchase of a land at a good price but neither the said transactions were ever completed nor the money was returned. Since hefty amount is involved and investigation of the case is yet in progress, grant of pre-arrest bail to applicant may hinder fair investigation. Quashing petition as well as civil suit filed by applicant have already been dismissed. Prayer for dismissal of the bail has been

made.

4. I have heard learned Counsel for applicant/accused and learned Special/Addl.PP for the State assisted by learned counsel for the complainant and have gone through the police record carefully.

5. After giving thoughtful consideration to the rival submissions and going through the record minutely, it is evident that the aggrieved party is in fact one Jagjit Singh alias Joe Sekhon (referred to as complainant) son of late Mukhtiar Singh, r/o United State of America, on whose behalf application for taking requisite criminal action was moved by Harpreet Singh son of Gurdev Singh in the year 2014. Co-accused Harpreet Singh alias Lovely son of Amarjit Singh, who was power of attorney holder of complainant, made a telephonic call to complainant proclaiming that he has been approached by some parties, who were eager to purchase the land and were ready to pay good price for the same. Complainant sought some time for thinking about the same but wife of accused Harpreet Singh namely Rajinderpal Kaur and accused Amarjit Singh assured complainant that the deal was good and might not be missed. Amarjit Singh informed complainant that one party was ready to purchase the land for a sum of Rs.2.75 crores. Amarjit Singh assured complainant about the genuineness of the party. On 16.9.2011, Amarjit Singh and co-accused informed complainant that registered sale deed has been executed in favour of Sukhwinder Singh, Jaspal Singh and Balbir Singh sons of Mukhtiar Singh in three equal shares for a sum of Rs.2.75 crores. It was further informed that sum of Rs.1.60 crores was mentioned

as sale consideration in the sale deed and remaining amount has been received by accused in cash. Sum of Rs.60 lakh was deposited in the account of power of attorney holder of the complainant on 3.10.2011. Thereafter, sum of Rs.10 lakh was again deposited in the account of complainant on 3.11.2011.

6. Complainant was again insisted upon by the accused to invest sum of Rs.60 lakh received by him as sale consideration in property as it would fetch more profit. Sum of Rs.2 lakh was deposited by complainant, in the account of accused Harpreet Singh alias Lovely, whereas amount of Rs.1 lakh was transferred in the account of accused Rajinderpal Kaur, wife of accused Harpreet Singh. Accused kept on lingering the matter about the remaining sale consideration on one pretext or the other assuring the complainant that they were searching for good property. No satisfactory reply was given by any of the accused about selling of property of complainant, remaining sale consideration and entire calculation pertaining to the aforesaid transactions. Three more sale deeds dated 8.6.2012 and 13.3.2013 pertaining to the properties purchased by the accused on the pretext of investment were produced which pertained to sale consideration of Rs.1,62,500/-, Rs.1,75,000/-, Rs.4,19,500/- only against the amount of Rs.60 lakh given to the accused for investment. Later on, accused started hurling threats and flatly refused to return the requisite amount to the complainant. The power of attorney which was executed by complainant in favour of accused Harpreet Singh alias Lovely, in the year 2011, was revoked by him in the year 2014 and fresh

power of attorney was executed by complainant in favour of Harpreet Singh, son of Gurdev Singh, who moved application on behalf of complainant.

7. It cannot be overlooked that the transactions between the parties dates back to the year 2011. It is not denied by the prosecution that co-accused Harpreet alias Lovely was the power of attorney holder of complainant. It is not the plea of prosecution that said power of attorney was forged or fabricated or was ever misused by co-accused Harpreet Singh in connivance with other accused. New power of attorney was executed by complainant in August 2014 in favour of Harpreet Singh son of late Gurdev Singh whereas all the sale deeds execution of which is in question are prior to year 2014, meaning thereby the said sale deeds are claimed to have been executed during the subsistence of power of attorney executed by complainant in favour of accused Harpreet Singh alias Lovely.

8. It is also conceded by prosecution that the in earlier inquiry conducted by the police, accused were declared innocent. FIR was got registered in the year 2015 after another subsequent inquiry was conducted. Even, in the inquiry proceedings, accused had joined the proceedings. Since the commencement of the said proceedings, accused have participated in the inquiry proceedings. There is no allegation of accused having fleeing away. The contention regarding actual agreed amount of sale consideration viz a viz one mentioned upon registered sale deed requires adjudication by way of evidence as prosecution intends to

base its claim upon the non return of the amount which was allegedly taken in cash by the accused on behalf of complainant avoiding payment of stamp duty on the same. What other properties were agreed to be purchased on behalf of the complainant for the sum of Rs.60 lakh has not been specified. The exact rate of the properties pertaining to the other three sale deeds are also in dispute. All the requisite documents and the entire bank record have is the part of the police record as same was taken into possession during the inquiry proceedings. As far as the dismissal of civil suit and quashing petition filed by the accused is concerned, civil suit titled Amarjit Singh versus Harpreet Singh was dismissed as withdrawn on 9.3.2016 and similarly quashing petition was also dismissed as withdrawn with a liberty to avail appropriate remedy. The entire inter se transaction between the parties is based upon transfer of money through bank account and execution of registered documents, which are not denied by the prosecution.

9. Reliance is being placed upon the decision of Hon'ble High Court of Punjab and Haryana in **Pawinder Singh versus State of Punjab, 2018 (4) Law Herald 2845** in which power of attorney holder has transferred the land and sale deed was also executed. There was no allegation that complainant was induced to execute power of attorney in favour of accused. It was observed that case is based upon documentary evidence and custodial interrogation is not required, petition under Section 438 Cr.PC was allowed.

10. Applicant/accused is the father of co-accused Harpreet

Singh, who was power of attorney holder of complainant. Applicant/accused is ready to join the investigation and considering that the matter pertains to year 2011 and applicant/accused has already joined the inquiry proceedings, court deems it fit to grant the concession of pre-arrest interim bail to the applicant. Applicant/accused is admitted to interim anticipatory bail and is directed to join investigation on or before 15.6.2020. In case applicant/ accused joins investigation, he shall be admitted on interim anticipatory bail by investigation officer/SHO/ arresting officer subject to the following conditions:

- a) That the applicant-accused shall make himself available for investigation by the police officer as and when required,
- b) That applicant-accused directly or indirectly shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any police officer.
- c.) That applicant-accused shall not leave the country without prior permission of the court.

11. After joining the investigation, report be submitted on 17.6.2020 and police record be also produced on the said date. Copy of bail order sent to officer in-charge of concerned police station forthwith. Nothing stated aforesaid shall be construed as an expression or opinion of the merits of the case.

(Rashmi Sharma)

Addl. Sessions Judge

Ludhiana, UID No. PB0201

Pronounced in open/virtual Court:

Dated: 10th June, 2020

Raj Kumar, Stenographer Gr.II