(2013) 08 P&H CK 0829

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-26683 of 2013 (O and M)

Subhash Chandra Goyal		APPELLANT
	Vs	
State of Haryana		RESPONDENT

Date of Decision: Aug. 19, 2013

Citation: (2014) 2 Crimes 143 : (2013) 4 RCR(Criminal) 121

Hon'ble Judges: Ram Chand Gupta, J

Bench: Single Bench

Advocate: Vishal Gupta, for the Appellant;

Judgement

Ram Chand Gupta, J.
The present petition has been filed for anticipatory bail u/s 438 of Code of Criminal Procedure in FIR no. 198 dated 09.06.2011, u/s 409/420/467/468/471/120B IPC, registered at police station Tauru, District Mewat. I have heard learned counsel for the petitioner and have gone through the whole record including the impugned order passed by learned Additional Sessions Judge, Nuh dismissing bail application filed by the petitioner.

2. Brief allegations are that, the present FIR was lodged by the Deputy Commissioner, Mewat Nuh as per order of this Court passed in Civil Writ Petition No. 2163 of 2011 (Maherdin and others v. Smt. Medha and others). It was observed by this Court while deciding the said Writ Petition that, the present petitioner-accused, who was posted as Director, Consolidation, Haryana passed order dated 10.11.2008 u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 allowing exchange of land measuring 120 Kanals 12 Marlas owned by his niece i.e., Smt. Medha, with the land of Gram Panchayat of Sehsola, Tehsil Tauru, District Mewat. It was also observed that exchange of the said land, which was allowed by the petitioner was arbitrary, unreasonable and that even there was no resolution of the Gram Panchayat to this effect. There was no permission of the Government for transfer of any land by exchange with the land of Smt. Medha and hence, it was observed that the present

petitioner-accused committed fraud upon the Gram Panchayat resulting the Gram Panchayat losing its land. It was also observed that there was no Panch in the name of R. Mohammed, who allegedly appeared before him and gave statement giving concession in favour of Smt. Medha, which was accepted by the present petitioner as sufficient reason to pass the order. Hence, it is a case of fraud having been committed by the present petitioner-accused while posted as Director, Consolidation, Haryana. The order was also found to be without jurisdiction as the petitioner was having no authority vested by law in him to allow exchange of Gram Panchayat''s land and hence, the Deputy Commissioner was directed to initiate criminal proceedings against petitioner and other accused, on the basis of which the present FIR was lodged.

3. In reply to specific query put by this Court, it has been stated by learned counsel for the petitioner-accused that though Letters Patent Appeal was filed by the petitioner against the said judgment passed by Hon''ble Single Bench of this court and however, the same was got dismissed as withdrawn. It is further submitted that Review Application was also filed by the petitioner and however, the same was also got dismissed as withdrawn and hence, the observations made by this Court in the aforementioned Writ Petition have become final.

4. It has been contended by learned counsel for petitioner-accused that present FIR is dated 09.06.2011 and that after expiry of the period of two years, now the petitioner is sought to be arrested by the police. It is further contended that Smt. Medha filed SLP before Hon''ble Apex Court and the operation of order passed by this Court has been stayed qua co-accused, Medha. However, merely on the ground that operation of order passed by this Court in LPA has been stayed by Hon''ble Apex Court vide order dated 01.05.2013 qua co-accused, Medha alleged to be niece of petitioner, it cannot be said that the said stay order is applicable to the case of present petitioner. Moreover, it has been clarified by Hon''ble Apex Court in a subsequent order dated 15.07.2013, Annexure P3, that the stay granted on 01.05.2013 is confined to Medha only.

5. There are very serious allegations against petitioner-accused. Hence, I am of the view that petitioner-accused is not entitled for extra-ordinary relief of anticipatory bail. Hence, in view of these facts and without expressing any opinion on the merits of the case, the instant application for anticipatory bail filed by Subhash Chandra Goyal is, hereby, dismissed being devoid of merit.