

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

**CRM-M No. 33540 of 2014 (O&M)
Date of decision: 30.07.2015.**

Poonam and others Petitioners.

Versus

State of Haryana and another Respondents.

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present:- Mr. Jai Vir Yadav, Advocate, for the petitioners.

Mr. Pawan Gaur, DAG, Haryana, for respondent No.1.

Respondent No. 2 – Ravi Yadav in person with
Mr. Jasdev Singh Thind, Advocate, for respondent No. 2.

NAVITA SINGH, J. (ORAL)

CRM No. 22513 of 2015

Heard. For the reasons given in the application and the accompanying affidavit, the application is allowed, as prayed for, and the application relating to the order dated 19.05.2015 (Annexure R2/A-1) is taken on record, subject to all just exceptions.

CRM No. 22514 of 2015

Respondent No. 2 has filed this application for correction of the order passed on 19.05.2015 wherein by mistake the name of the counsel representing respondent No. 2 was mentioned as Mr. Sachdev Singh whereas the actual counsel is Mr. Jasdev Singh.

In view of the above, the application is allowed and the mistake is corrected. The said order be read accordingly.

CRM-M No. 33540 of 2014

This petition has been moved by the petitioners under Section 438 of the Code of Criminal Procedure seeking anticipatory bail in Complaint Case No. 12/RT dated 01.08.2008/13.09.2012, titled as 'Ravi Yadav versus Dharambir etc.', under Sections 302, 328, 120-B read with Section 34 of the Indian Penal Code.

The backdrop of the matter is that petitioner – Poonam was married with respondent No. 2 on 11.05.2005 and after a couple of months, respondent No. 2 filed a petition under Section 12 of the Hindu Marriage Act, 1955, which was dismissed. The petition filed by petitioner No. 1 was allowed and the marriage between the parties was dissolved on 13.12.2012.

FIR No. 172 dated 19.08.2005 was registered at Police Station Model Town, Rewari, under Sections 302, 328, 120-B read with Section 34 of the Indian Penal Code regarding which cancellation report was submitted by the police and the same was accepted by Additional Chief Judicial Magistrate, Rewari, vide order dated 19.12.2008. Notice, thereafter, was issued to the complainant, who failed to file any protest petition and, therefore, the file was ordered to be consigned to records vide order dated 26.08.2009 passed by Additional Chief Judicial Magistrate, Rewari. Thereafter, respondent No. 2 filed a revision petition in 2009 against the order of acceptance of the cancellation report and consignment of the file to the records, which petition was accepted by Additional Sessions Judge, Rewari, on 07.04.2010 and the complainant was afforded an opportunity of being heard before passing any further order by the Court concerned.

Treating the protest petition as a complaint, summoning order

against the petitioners was passed on 25.07.2014 and they have appeared before the Court below and submitted bail bonds in terms of order passed by this Court on 07.10.2014 in the present petition and are on interim bail accordingly.

Counsel for the petitioners submits that the petitioners have appeared before the Court and have furnished bail bonds and are ready to face the proceedings. They were summoned after nine years of the lodging of FIR which had initially been cancelled and the complainant did not bother to file a protest petition. As already mentioned above, the file was consigned to the records and was revived on a revision petition filed by the complainant later on.

Counsel for respondent No. 2 has strongly opposed the request of the petitioners for grant of anticipatory bail stating that the decree of divorce is challenged and in view of the allegations made by the complainant, the petitioners should not be granted anticipatory bail. Counsel for respondent No. 2 further contends that his father, namely, Abhey Singh was poisoned and for that reason, the FIR was lodged against the petitioners in 2005 regarding which cancellation report was submitted after four years.

It may be pointed out here that cancellation report was submitted on 11.10.2008 and was accepted on 19.12.2008, i.e. after little over three years. No limitation is prescribed under the Code of Criminal Procedure for filing charge-sheet in a case under section 302 of the Indian Penal Code and, therefore, it cannot be said that the cancellation report was allegedly filed with delay.

It is mentioned in the reply filed by respondent No. 2 that if the petitioners are granted anticipatory bail, they would try to influence and collude with the District Courts at Rewari and make mockery of justice.

It seems that respondent No. 2 is not even aware what he is writing and what can be the possible consequences thereof. The matter does not end there, it is mentioned in the written arguments submitted by respondent No. 2 by way of CRM No. 8346 of 2015 that Hon'ble Mr. Justice Naresh Sanghi had withdrawn himself on 05.12.2014 from the main petition as the petitioners had tried to influence the Hon'ble Judge by illegal means to get anticipatory bail.

Respondent No. 2 submits that he was not aware that bringing any such thing by him may entail serious repercussions. CRM No. 8346 of 2015 is signed by respondent No. 2 himself and not by any counsel.

In view of the facts and circumstances given in detail above and in view of the fact that the petitioners have appeared before the Court below and are on interim bail and further that their custody is not required for any interrogation or otherwise, the petition is allowed and the interim relief granted to the petitioners vide order dated 07.10.2014 is made absolute.

(NAVITA SINGH)
JUDGE

30.07.2015
Ramesh