

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

**CRM-M-34760-2020
Date of decision: 24.03.2021**

Jagdev Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Jasdeep Singh, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioners in complaint case, bearing No. 78 dated 29.07.2015 titled as ***Mandeep Kaur vs. Jagdev Singh etc.***, under Sections 376-D, 377, 328, 342, 366, 166-A, 166-B and 34 of the IPC, pending before the Court of SDJM, Phul.

On 30.10.2020, the following order was passed:

“The Illaqua Magistrate, vide its order dated 25.07.2018, dismissed the complaint by observing that as per the medical evidence, the allegations of rape are not verified. Thereafter, complainant Mandeep Kaur filed a revision before the Court of Sessions and it appears that during the pendency of the revision, she died and now the complaint is being pursued by her mother Paramjit Kaur. The revisional Court, after issuing a notice only to the public prosecutor, allowed the revision and remanded the case back to trial Court, vide judgment dated 03.09.2019.

Learned counsel for the petitioners relies upon **2014 (5) SCC (Cri.) 777 Prime Impex Ltd. and Ors. vs. P. E.**

C. Ltd. and Anr., wherein it is held by Hon'ble Supreme Court that even in case a complaint, which is dismissed before summoning an accused, a right is accrued in favour of the accused and if a revision is filed challenging the said order, the revisional/appellate Court is bound to give a notice to the proposed accused person.

Learned counsel further submits that in pursuance to said order, the Illaqua Magistrate summoned the petitioners, vide order dated 17.03.2020 and even before passing this order, no opportunity of hearing was granted to petitioners.

Learned counsel further submits that he has instructions to say that petitioners are ready to appear before the trial Court and face trial.

Notice of motion for 24.03.2021.

In the meantime, the petitioners are directed to appear before the trial Court within a period of fifteen days from today and on doing so, the trial Court shall release them on interim bail, subject to their furnishing bail/surety bonds to its satisfaction.”

Learned counsel for the petitioners submits that the petitioners, in pursuance to the order dated 30.10.2020, have already appeared before the trial Court and they have been released on interim bail.

The aforesaid fact is not disputed by learned State counsel.

In view of the above, the petition is allowed and the order dated 30.10.2020 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

24.03.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*