

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

**CRM-M-49634 of 2021
Date of decision: 26.11.2021**

Harish Kumar

Petitioner

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ravi Kant Sharma, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

This petition under Section 439(2) Cr.P.C. is filed seeking cancellation of anticipatory bail granted to respondents No. 2-Shakuntala and 3-Ankit by this Court in FIR No. 58 dated 12.2.2020, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Bhuna, District Fatehabad.

The FIR was got registered by Harish Kumar alleging that Shakuntla and Ankit (respondents No. 2 and 3) in connivance prepared documents by putting forged signatures of Satish Kumar, for getting ration card, voter card, birth certificate. Satish Kumar was married with Usha but she started residing in her maternal house. In 1991 she filed a petition under Section 125 Cr.P.C. The Court awarded maintenance which was paid by Satish Kumar. The allegations that signatures of Satish Kumar on documents for applying the birth certificate, ration card, voter card were different from the signatures appended by Satish Kumar while paying the maintenance. The motive for procuring documents was to embezzle the estate left by Satish Kumar.

On 2.8.2021, after hearing counsel for the (respondents No. 2 and 3 in the present petition), State and the complainant passed the

following order:

"Petitioners-Shakuntla and Ankit have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of anticipatory bail in case FIR No.58 dated 12.02.2020 registered under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 at Police Station Bhuna, District Fatehabad.

In the course of hearing of arguments, learned Counsel for the petitioners has submitted that Satish Kumar against whom petition under Section 125 of the Cr.P.C. was filed by Usha is a person different from Satish Kumar who had solemnized marriage with petitioner No.1 Shankuntla and adopted petitioner No.2 as his son while learned Counsel for the complainant has submitted that Usha who had filed petition under Section 125 of the Cr.P.C. is still alive.

Case is adjourned to 10.08.2021.

Learned Counsel for the complainant is directed to file affidavit of the complainant giving full particulars regarding parentage and residential address of Usha in the Registry.

The respondent-State is directed to file additional reply in the Registry before the date fixed giving better particulars with respect to the following aspects:-

1. Whether Usha alleged to be wife of deceased Satish Kumar has been joined in investigation and whether her statement has been recorded by the Investigating Officer in the case?

2. Whether Satish Kumar against whom said Usha filed proceedings under Section 125 of the Cr.P.C. is different from Satish Kumar who had solemnized marriage with petitioner No.1 Shakuntla and adopted petitioner No.2 as son?

Investigating Officer of the case shall remain present before this Court through video conferencing on the date fixed.

In the meanwhile, the petitioners are directed to join the investigation within seven days from the date of passing of this order. In the event of their arrest, the petitioners shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall not be entitled to the protection of interim anticipatory bail allowed to them."

On 26.10.2021, the interim order was made absolute on the

basis of statement made by learned counsel for the State that the respondents No. 2 and 3 had joined investigation and their custodial interrogation was not required.

Learned counsel for the petitioner submits that anticipatory bail granted to respondents No. 2 and 3 be cancelled, as custodial interrogation is necessary to determine as to whether signatures of Satish Kumar on the application for getting birth certificate and other documents were forged or not.

Learned counsel for the State submits that Satish Kumar is dead, for comparing his signatures custodial interrogation of respondents No. 2 and 3 is not required.

The anticipatory bail was granted after hearing learned counsel for the complainant and taking note of the fact that custody is not required by the investigating agency. Learned counsel for the petitioner has not been able to point out any valid reason for cancellation of the anticipatory bail. There is no pleading of concession of anticipatory bail being misused.

The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

26th November, 2021
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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |