

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Bail Application No.2087/2007**

% **Date of decision : 31.07.2008**

Harpal Singh and Others Petitioners
Through: Mr.Naveen Saxena, Advocate.

Versus

The State Respondent
Through : Mr.Amit Sharma, APP for the State.
Mr.D. Hasija, Advocate for the
complainant.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioners, who are father-in-law, mother-in-law and husband of complainant, Smt. Rekha, seeks anticipatory bail under Section 438 of Criminal Procedure Code.

The petitioners contended that the complaint was filed as a counter blast to the petition under Section 11 of Hindu Marriage Act registered as HMA No.486/2006 filed by the petitioner No.3 for declaring his alleged marriage with the complainant, Smt.Rekha, as

null and void on the ground that at the time of marriage, complainant was already married to Shri Satbir Singh and the marriage between the complainant and Shri Satbir Singh were not dissolved by a decree of divorce. The petition under Section 11 of Hindu Marriage Act was filed by the petitioner No.3 on 28th August, 2006 and the complaint was filed on 31st October, 2006, after filing of the petition by petitioner No.3 under Section 11 of Hindu Marriage Act, 1955 for declaring the said marriage as null and void.

The petitioners contended that the complainant left the house on her own on 10th/11th June, 2006 after the petitioners came to know that the complainant was already married with Shri Satbir Singh.

It is asserted by the learned counsel on behalf of petitioners that the complainant's application under Section 24 of Hindu Marriage Act, 1955 for pendente lite maintenance was dismissed on the ground that the marriage of the complainant with Shri Satbir Singh had not been legally dissolved and her plea that her marriage with Shri Satbir Singh was dissolved through *Panchayat* by entering into an agreement/*samjhota* had no legally sanctity. Learned counsel for the petitioners also contend that the petition filed by the petitioner No.3 under Section 11 of Hindu Marriage Act, 1955 has since been allowed and the alleged marriage has been declared to be null and void and no appeal has been filed against the decree declaring the alleged marriage between the petitioner No.3 and the complainant as null and void.

The petitioners have contended that the complainant had harassed and pressurized her husband, Satbir Singh, and his family members demanding her *istridhan* and cash amount. The petitioner No.3 is stated to be the only son of petitioner Nos.1 and 2 who are senior citizens and ailing. It is contended that the petitioners are respectable persons having roots in the society and are not previous convicts in any other case and have permanent residence at Delhi and they will abide by any terms and conditions as may be imposed by the Court.

Learned counsel for the complainant has very vociferously contended that the marriage was dissolved by agreement/*samjhota* by the *Panjchayat* and, therefore, the marriage between the complainant and petitioner No.3 is valid. Learned counsel is, however, unable to show any provision of the Hindu Marriage Act under which the marriage between the parties can be dissolved by the alleged agreement/*samjhota* entered between the parties before the alleged *Panchayat*. Since the marriage between petitioner No.3 and complainant has already been declared as null and void and no appeal has been filed, it cannot be inferred that there was marriage between the parties.

In the circumstances, it is a fit case to grant anticipatory bail to the petitioners. The Petitioners were granted interim anticipatory bail

by order 26th September, 2007, subject to furnishing personal bonds in the sum of Rs.20,000/- each with one surety each.

For the foregoing reasons, the petition is allowed and the order of interim bail is confirmed. In case of arrest, the petitioners be released on bail on their furnishing a personal bonds in the sum of Rs.20,000/- each with one surety each of the like amount to the satisfaction of the investigating/arresting officer. The petitioners shall take part in the investigations as and when directed and they should not try to influence the witness in any manner.

The petition is disposed of. Dasti.

July 31, 2008
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ANIL KUMAR, J.