

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

**CRM NO. M-40814 OF 2014 (O&M)
DECIDED ON : 06.01.2015**

Ravi Kant Swami

...Petitioner

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. K. S. Khehar, Advocate,
for the petitioner.

Mr. Rajesh Sheoran, Addl. AG, Haryana.

Mr. Angel Sharma, Advocate,
for the complainant.

K. C. PURI, J. (ORAL)

CRM NOS. 197-98 OF 2015

The applications stand allowed and the documents
Annexures P-3 to P-6 are taken on record, subject to all just
exceptions.

MAIN CASE

Ravi Kant Swami son of Jai Singh Swami has applied
for grant of pre-arrest bail in FIR No. 204 dated 05.11.2014
under Sections 147/149/332/353/506 of the Indian Penal Code

(in short "the IPC") and Section 3 (i)(x) of the Prevention of Atrocities Act, 1989 (in short "the Act"), registered at Police Station Section 14, Panchkula.

As per allegations of the prosecution, Dr.S.K. Chouhan, Executive Officer, Nagar Nigam, Panchkula, made a statement to the effect that the present petitioner told him to clear the files on telephone to which he pleaded that he will clear those files in due course. In the meantime, the petitioner came in the office where 2/3 more persons were present and he uttered words against the caste of complainant and has stated that people of your caste are not fit to sit on the chair and thereafter he manhandled the complainant and threatened to kill him and his family members.

Learned counsel for the petitioner has submitted that in the FIR, it is nowhere mentioned that the petitioner is a member of non-scheduled caste and complainant is a member of scheduled caste and that petitioner has the knowledge of such facts. It is further submitted that the complainant has earlier filed complaint against the SDM regarding his caste and the matter was compromised and as such, the complainant is habitual of making such complaints regarding his caste.

Learned counsel for the petitioner has further submitted that in view of authority "**Gorige Pentaiah vs. State of A.P and others" 2008 (4) RCR (Criminal) 171**, the proceedings under Sections 3 (i)(x) of the Act were quashed

where there was no specific allegation about the knowledge of caste of the complainant and the accused.

On the other hand, learned State counsel, as well as, learned counsel for the complainant have opposed the bail petition and have submitted that application under Section 438 Cr.P.C is not maintainable in view of Section 18 of the Act and to press this point, they have relied upon following authorities :-

- i) "Vilas Pandurang Pawar and another vs. State of Maharashtra and others" 2012 (4) RCR (Criminal) 761; and***
- ii) "Shakuntla Devi vs. Baljinder Singh" 2013 (2) RCR (Criminal) 882;***

Learned counsel for the complainant has further submitted that other eye witnesses have supported the case of prosecution.

I have considered the submissions made by both the sides and have gone through the records carefully.

The Hon'ble Apex Court in ***Gorige Pentaiah's case (supra)*** has held that the allegations made in the First Information Report or complaint are to be taken at their face value. It has been further held in the said authority that complainant has not stated that accused was a member of non-scheduled caste or scheduled tribe and complainant is member of scheduled caste or scheduled tribe and that accused has

intentionally insulted or intimidated the complainant with an intent to humiliate the complainant in a public place, in that case, proceedings under the Act can be quashed.

There is no dispute to the proposition of law laid down in authorities ***Vilas Pandurang Pawar and another's*** and ***Shakuntla Devi 's cases (supra)*** wherein it has been held that in case the ingredients of the offence are made out, in that case power under Section 438 Cr.P.C should not be exercised, in view of bar under Section 18 of the Act.

In view of the fact that there are no specific averments made in the FIR regarding the fact that the petitioner is a member of non-scheduled caste and the complainant is member of scheduled caste and the accused has intentionally insulted him in the public view, I deem it a fit case to grant the concession of anticipatory bail to the petitioner.

So, without commenting on the merits of the case, the petition stands accepted. The petitioner is ordered to be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Officer subject to the following conditions, as envisaged in Section 438 (2) of the Code of Criminal Procedure :

- i) That the petitioner shall make himself available for interrogation, as and when required;

ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

iii) That the petitioner shall not leave the country without prior permission of this Court and shall surrender his passport, if any.

JANUARY 06, 2015
shalini

(K. C. PURI)
JUDGE