

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Crl. Misc. No.M- 41955 of 2014(O&M)

Date of Decision: January 20, 2015.

Darshan Lal and another

..... PETITIONER (s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gautam Thapar, Advocate
for the petitioners.

Mr. K.S.Sidhu, DAG, Punjab.

Mr. Rahul Sharma, Advocate
for the complainant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioners pray for anticipatory bail in FIR No.126 dated 11.09.2014, under Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act'), registered at police station Division No.5, Jalandhar

Learned counsel for the petitioners contends that no prima facie

offence is made out against the petitioners under Section 3 of the Act as the complainant has nowhere averred that petitioners were aware of the fact that he belongs to Scheduled caste category. No specific details have been given in the FIR regarding the offence stated to be committed by the petitioners.

Learned counsel for the State as well as the complainant vehemently urged that the present petition is not maintainable as no anticipatory bail can be granted under this Act. Specific averments have been made in the FIR constituting an offence under Section 3 of the Act.

I have heard learned counsel for the parties and gone through the file.

As per the averments in the FIR the complainant, namely, Raj Kumar Hans had gone to main Bazar, Basti Danishmandan for settlement of a particular matter. At that time, petitioner No.2 – Suraj @ Sonu started abusing the opposite party Gaurav. When the complainant tried to intervene, petitioner No.2 – Suraj alongwith Pankaj and Sonu (non-applicants) attacked him and thereafter, uttered caste specific abuses to him. When he opposed this behaviour, petitioner No.1 – Darshan Lal also uttered caste specific abuses against him. Therefore, the present FIR was lodged.

Perusal of the FIR reveals that there is nothing to show that the present petitioners were aware of the caste of the complainant. No detail has been given about the abuse/abuses uttered by the petitioners. Therefore, the bar envisaged by Section 18 of the Act would not be applicable in this case in exercise of the power under Section 438 Cr.P.C.

Learned counsel for the State, on instructions from ASI Kewal Singh, affirms that pursuant to order dated 09.12.2014, petitioners have joined

investigation and no recovery is to be effected from them. It is confirmed and verified that there is no injury on the person of complainant.

There are no allegations on behalf of the State that petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Thus, keeping in view the above but without commenting or expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition.

Consequently, order dated 09.12.2014 is made absolute. Petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C.

Petition is allowed.

Any observation made hereinabove is for the limited purpose of decision of this petition for anticipatory bail only and will have no bearing on trial of this case.

January 20, 2015.
'om'

(**LISA GILL**)
JUDGE