

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-4220 of 2015

Date of decision : 04.05.2015

B.M. Saxena

..... Petitioner

versus

Budh Singh and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Kunal Dawar, Advocate
for the petitioner**

**Mr. S.K. Yadav, Advocate
for respondent No. 2**

Mr. Deepak K. Grewal, DAG Haryana

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking anticipatory bail in a Complaint No. 921 dated 21.11.2012 filed under Section 323/506 IPC and Section 3/33/89 of SC/ST Act.

On the last date of hearing, a Coordinate Bench in view of circumstances as were disclosed had ordered the petitioner to appear before the summoning Court. An interim protection was granted and directions were issued to the summoning Court to release the petitioner on interim bail.

Learned counsel for the petitioner contends that the petitioner has appeared before the summoning Court and the order may be made absolute. He also states that a petition for quashing the complaint had been filed in which notice of motion had been issued and proceedings before the summoning Court have been

stayed. He has placed on record order dated 10.03.2015 passed by the summoning Court.

Learned counsel appearing for respondent No. 1 urges that anticipatory bail should not be allowed in view of Section 18 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and has placed reliance on ***Shakuntla Devi vs. Baljinder Singh, 2013(2) RCR(Criminal) 882*** and ***Bachu Das vs. State of Bihar and others, 2014(1) RCR(Criminal) 975.***

Learned counsel for the petitioner has placed reliance on ***Jai Parkash and others vs. State of Haryana and another, 2011(3) RCR(Criminal) 217, Ajit Singh vs. State of Haryana and another, 2012(1) RCR(Criminal) 507*** and ***Gorige Pentaiah vs. State of A.P. and others, 2008(4) RCR(Criminal) 171*** and urges that the complainant was suspended on 23.07.2012 and this fact has not been mentioned in his complaint and the complaint was filed relating to that day (23.07.2012) but in November 2012 and complaint Annexure P-3 does not contain the basic ingredients of the offence under Section 3(1)(x) of the Act and no offence was *prima facie* made out as it was not committed in public view and the alleged abuse/shouting had taken place in the closed room of the petitioner who is his superior officer. He urges that it is nowhere stated in the complaint that the complainant was member of Scheduled Caste or Scheduled Tribe or that the accused had intentionally insulted or intimidated with an intention to humiliate in a place within public view and the basic ingredients of the offence were missing.

The petition for quashing of the complaint has been filed

by the petitioner. Learned counsel for the petitioner has stated that notice of motion had been ordered and the proceedings before the trial Court have been stayed.

I have gone through the complaint. The question whether any offence is made out or not yet have to be examined. The basic ingredients are not mentioned in the complaint. The petitioner contends that the offence was not committed in public view. No custodial interrogation is to be carried out.

In **Gorige Pentaiah's case (supra)**, in a case relating to an offence under Section 3(1)(x) of the Act, the complaint had been filed by a number of persons of the Scheduled Castes alleging that the accused therein had abused them in the name of caste. It was, however, not stated in the complaint that the accused was not a member of the Scheduled Castes and Scheduled Tribes and he intentionally insulted or intimidated with intent to humiliate the complainant in a place within public view. It was held by the Supreme Court that the basic ingredients of offences under the Act were missing in the complaint and the complaint was quashed. Therefore, at this stage when the custody of the petitioner is not required for the purpose of investigations as he has been summoned in a private complaint, it would be improper that he should be confined to custody so as to prevent him from interfering with proper investigation as has been held in the case of title **State of M.P. vs. Ram Krishna, 1995(2) RCR 85 (SC)**.

The question whether the incident had taken in the manner spoken by the complainant or that the offending words were

heard can only be ascertained after the evidence is led, therefore, in view of the facts and circumstances the ingredients of Section 3(1)(x) of the Act are not attracted. The petitioner has already appeared before the trial Court in terms of the interim order passed and has furnished the bail bonds.

Accordingly, the petition is allowed and interim order dated 09.02.2015 is made absolute.

May 04, 2015

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**(ANITA CHAUDHRY)
JUDGE**