

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-8339 of 2015 (O&M)

Date of Decision: 21.07.2015

Vinod

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:-HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. R.S. Mamli, Advocate for the petitioner.

Mr. Satish Saini, D.A.G., Haryana.

Mr. P.S. Jammu, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the instant petition filed under Section 482 Cr.P.C read with section 438 Cr.P.C praying for grant of anticipatory bail to the petitioner in case F.I.R. No. 485 dated 28.11.2014 under Sections 148, 341, 323, 506 I.P.C read with section 149 I.P.C, section 66-A of the Information Technology Act and sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

On 27.4.2015, the following order was passed by this Court:-

“Reply by way of affidavit of Deputy Superintendent of Police (Head Quarter), Fatehabad has been filed in Court today and the same is taken on record.

Learned counsel appearing for the complainant would, vehemently, oppose the prayer made in the present petition seeking concession of pre-arrest bail by contending that offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been cited and there is a specific bar in regard to granting such concession under Section 18 of the Act.

Having heard counsel for the parties, this Court prima-facie finds weight in the submission made by counsel for the petitioner that there has been a false implication of the petitioner inasmuch as it is only in pursuance to a second disclosure statement dated 04.01.2015 suffered by Vishal i.e. son of the complainant i.e. almost 40 days after the alleged date of occurrence that the offence under Section 3 and 4 of the Scheduled Castes and Scheduled Tribes Act has been added.

List on 21.07.2015.

In the meanwhile, petitioner is directed to join investigation and to appear before the Investigating Officer on 06.05.2015.

In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions as envisaged under Section 438(2) Cr.P.C.”

Learned State counsel upon instructions from ASI Raj Suvinder Singh has apprised the Court that the petitioner has since joined investigation. State counsel further informs that the investigation having been completed, challan was presented on 19.5.2015 and even charges, thereafter, have been framed.

During the course of hearing today, State counsel as also counsel appearing for the complainant have not been able to rebut the factual position as regards the offence under sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act having been added only upon a second disclosure statement dated 4.1.2015 having been suffered by Vishal i.e. son of the complainant and 40 days after the alleged date of occurrence.

This Court is mindful of the specific bar contained under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act but in the light of the peculiar facts of the present case, false implication of the petitioner cannot be ruled out.

Investigation having been completed, challan stands presented and charges have been framed. Custodial interrogation of the petitioner, as such, would not be warranted.

Accordingly, present petition is allowed. Order dated 27.4.2015, passed by this Court, is made absolute.

However, it is made clear that the observations contained in the present order as also in the order dated 27.4.2015 are confined only as regards considering the prayer of the petitioner for grant of concession of anticipatory bail and would have no bearing on the merits of the case.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

21.07.2015

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