

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-1548 of 2016 (O&M)

Date of Decision: 04.04.2016

Jagdish Raj & others

--Petitioners

Versus

State of Punjab & another

--Respondents

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

Present:- Mr. R.K. Arya, Advocate for the petitioners.

Mr. K.D. Sachdeva, Addl. A.G., Punjab.

Mr. Naveen Batra, Advocate for respondent no.2.

TEJINDER SINGH DHINDSA.J

The present petition has been filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking the concession of anticipatory bail to the petitioners in criminal complaint case No.302-A, RBT No.123/18.04.2015 titled as Thuru Ram vs. Jagdish Raj & others pending the Court of PCS, JMIC, Gurdaspur under Sections 3 & 4 of the SC & ST (Prevention of Atrocities) Act, 1989.

On 15.1.2016, while issuing notice of motion, the following order was passed by this Court:-

“The present petition has been filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking the concession of anticipatory bail to the petitioners in criminal complaint case No.302-A, RBT No.123/18.04.2015 titled as Thuru Ram vs. Jagdish Raj & others pending the Court of PCS, JMIC, Gurdaspur under Sections 3 & 4 of the SC & ST (Prevention of Atrocities) Act, 1989.

Counsel would submit that as per contents of the complaint, the alleged occurrence is stated to be of 20.11.2009. Counsel has adverted to document placed on record and appended as Annexure P-4 i.e. an inquiry report dated

19.10.2010 submitted by the Additional Director General of Police, Punjab State Human Rights Commission in respect of the allegations as regards the incident of 20.11.2009 and wherein categoric findings have been recorded that the version of the complainant is false. Perusal of the inquiry report would reveal that on similar allegations of uttering humiliating words regarding caste of the complainant, a complaint dated 30.09.2009 had earlier been filed and such allegations were found to be false and motivated on account of political rivalry. The report also records that the allegations of the complainant in respect of the incident dated 20.11.2009 are also false and contrary to documentary evidence which would reflect that Ashwani Kumar i.e. petitioner No.2 herein was not even present in the Court of SDM on 20.11.2009 as alleged by the complainant.

Notice of motion, returnable on 04.04.2016.

In the meanwhile, it is directed that the petitioners would duly appear before the trial Court within a period of one week from today and upon doing so, would be entitled to ad interim protection as regards arrest subject to the satisfaction of the trial Court.”

Counsel for the petitioners has produced in Court today certified copy of order dated 20.1.2016 of the learned J.M.I.C. Gurdaspur and perusal of the same would show that the petitioners had duly appeared before the Trial Court and were admitted to bail on having furnished requisite bail bonds and surety bonds.

During the course of arguments today the observations and contentions contained in the notice of motion order dated 15.1.2016 have gone un rebutted. Under such circumstances, the bar envisaged under Section 18 of the SC & ST (Prevention of Atrocities) Act, 1989 would not apply.

Accordingly, the present petition is allowed. The order dated 15.1.2016, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

04.04.2016

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