

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

Sr. No.104

CRM No.M-33020 of 2016

DECIDED ON: September 19, 2016

MOHINDER SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Harchand Singh Batth, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Section 438 Cr.P.C., petitioner-Mohinder Singh has sought pre-arrest bail in case FIR No.26, dated April 11, 2016, under Sections 307, 148 & 149 of IPC, Sections 25 & 27 of the Arms Act, 1959 & Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Act'), registered at Police Station Khem Karan, District Tarn Taran, during the pendency of the trial.

The contention of the learned counsel for the petitioner is that petitioner is not named in the FIR and has been sought to be arrested by the police on the basis of supplementary statement of the complainant. Even, otherwise, the name of the petitioner has been wrongly mentioned in the FIR. Moreover, injured has been discharged from the hospital and further that if at all the attribution with regard to Castes remarks is concerned that

CRM No.M-33020 of 2016

has been attributed to the co-accused of the petitioner. The petitioner undertakes to abide by all the terms and conditions imposed upon him, in case, he is granted the concession of pre-arrest bail. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner, but does not find any merit in the instant case.

The FIR has been registered under Sections 307, 148 & 149 of IPC and Sections 25 & 27 of the Arms Act, 1959 & Section 3 of the SC & ST Act. Section 18 of the SC & ST Act creates a specific bar for pre-arrest bail and makes the provision of 438 Cr.P.C. inapplicable in the situation, where the FIR has been registered under the provisions of the SC & ST Act. Moreover, at this stage, it cannot be said that the petitioner is not the same person, who has been named in the FIR. Otherwise also, during the course of arguments it has emerged that in the supplementary statement of the complainant recorded by the police, the name of the petitioner as well as the role attributed to him have figured.

In view of the facts and circumstances narrated above, this Court is of the considered view that instant petition has no merits. As such, the same is dismissed.

September 19, 2016
Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No