

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

CRM No.M-679 of 2016 (O&M)

Date of Decision: 16.03.2016

Mukesh Kumar & another

... Petitioners

Versus

Parmodh Gill

... Respondent

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

Present:- Ms. Ravinder Kaur Manaise, Advocate for the petitioners.

Mr. Sunil Agnihotri, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

The present petition has been filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking concession of anticipatory bail to the petitioners in complaint case bearing No.293 of 2014 dated 17.11.2014, under Sections 323/341/506/500/34 IPC and Sections 3/4 of the Scheduled Castes and Scheduled Tribes Act, 1989.

On 02.02.2016, the following order was passed by this Court:

“The present petitions have been filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking concession of prearrest bail to the petitioners in complaint case bearing No.293 dated 17.11.2014, under Sections 323, 341, 506, 500, 34 of Indian Penal Code and Sections 3, 4 of Scheduled Castes and Scheduled Tribes Act (for short 'SC & ST Act') wherein the petitioners have been summoned to face trial vide summoning order dated 04.11.2015 passed by the learned Judicial Magistrate Ist Class, Mukerian.

Contentions raised by the counsel is that even as per version of the complainant, the ingredients of the offence under Section 3 of the SC and ST Act are not made out, as merely calling the person by caste would not attract the provision of the Act and there has to be a specific and categorical accusation that the remarks had been uttered with an intent to insult or intimidate/to humiliate a member of a Scheduled Caste and Scheduled Tribes and that too in public

view. It is argued that even if the contents of the complaints are taken at face value, the alleged utterance cannot be construed as an attempt to intentionally insult or intimidate. It is further contended that after filing of the complaint, the petitioners had submitted a representation to the Senior Medical Officer, Primary Health Centre, Hajipur and whereupon an inquiry was marked to the Medical Officer concerned and in such inquiry findings have been returned that the occurrence had not taken place at all. It is contended that under such circumstances, the bar under Section 18 of the SC and ST Act would not apply.

List on 16.03.2016.

In the meanwhile, petitioners are directed to appear before the trial Court on the date already fixed i.e. 20.02.2016.

In the event of arrest, petitioners shall be entitled to ad interim protection as regards arrest subject to satisfaction of the trial Court.

A photocopy of this order be placed on the file of connected cases.”

Learned counsel appearing for the petitioners would make a categorical statement at the bar that in pursuance to the liberty granted by this Court, the petitioners had duly appeared before the trial Court on 20.02.2016 and were admitted to interim bail upon furnishing requisite bail bonds.

Petitioners having already joined trial proceedings and in view of the observations contained in the order dated 02.02.2016, the present petition is allowed. Order dated 02.02.2016 passed by this Court is made absolute.

Disposed of.

16.03.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**