

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

CRM-M-7728 of 2016 (O&M)

Date of decision: 04.10.2016

Harish Jain

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Gulzar Mohd., Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Heman Aggarwal, Advocate for respondent No.2.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in FIR No.21, dated 17.02.2016, registered under Section 3(1)(iv) of the Scheduled Castes & the Scheduled Tribes (Prevention of the Atrocities) Act, 1989 (for short 'SC/ST Act'), at Police Station Sadar Phagwara, District Kapurthala.

The learned counsel for the petitioner states that the present FIR has been registered after three months at the instance of brother of the petitioner as there was dispute over the title of Haveli restaurant between the petitioner and his brother. The present FIR has been registered on the complaint of the waiter of the said restaurant. In pursuance of order dated 03.03.2016, the petitioner has joined the

investigation.

On the other hand, the learned State counsel submits that the petitioner has joined the investigation but he is not cooperating.

The learned counsel for the complainant opposes the bail application and submits that the petitioner had abused and insulted the complainant in public view and threw jalebi at him telling him as he being a sweeper had polluted the religion of the petitioner. The owner of the restaurant, Dhani Ram was also a witness to the incident. Complainant urged him to take some action against the petitioner but since he failed to do so, he finally got registered the FIR in question.

Heard.

The allegations against the petitioner is that on 05.11.2015, when the complainant served jalebis to the petitioner and his friends, they made a comment that they would not eat jalebis served through a sweeper (choora) and the complainant being a sweeper had polluted the religion of the petitioner. At this stage, there is no evidence or circumstance on the basis of which it can be inferred that the case against the petitioner under the SC/ST Act is not made out.

Dismissed. Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

04.10.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No