

Criminal Misc. No. M- 13603 of 2017 (O&M)

Date of decision : October 27, 2017

Ran Singh

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 452 dated 08.11.2016 under Sections 354A, 365, 511, 34 IPC and Sections 3/33/89 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short – 'SC/ST Act') registered at Police Station Pataudi, Gurugram, District Gurugram.

It is submitted that the petitioner has not been named in the FIR or even in the statement of the victim under Section 164 Cr.P.C.

Contentions on behalf of the petitioner noted on 23.08.2017 read as under:-

“ It is contended that a perusal of the FIR reveals that no offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out against the petitioner. Therefore, bar to the grant of anticipatory bail contained in the said Act is not applicable. Moreover, the victim, in this case, has not identified the co-accused against whom the trial is proceeding. She has been declared hostile. Moreover, the petitioner, it is submitted, is serving the Armed Forces and has been falsely implicated at the behest of the

complainant, who is the Sarpanch of the village.

Learned counsel for the State, on instructions from ASI Ram Parkash, does not dispute the fact that the victim, in this case, has failed to identify the other co-accused while deposing before the learned trial Court.”

It is reiterated that no offence under the SC/ST Act is made out.

Learned counsel submits that a perusal of the FIR as well as the statement of the victim clearly show that no case whatsoever is made out under the SC/ST Act against the petitioner. Therefore, there is no impediment in the grant of anticipatory bail to the petitioner. Reliance is placed on a decision of this Court in **Mohan Singh versus Satpal 2014 (28) R.C.R. (Criminal) 475** to say that there is nothing on record to suggest that the petitioner was even aware of the community to which the alleged victim belonged.

As per the allegations in the FIR, which is registered on the basis of statement of lady Sarpanch of village Mirzapur, four persons travelling in a Santro car tried to force some of the village girls into their car while catching hold of their hands. The petitioner has not been named in this case. He has been nominated as an accused merely on the basis of the disclosure statement of the co-accused.

Three of the co-accused, in this case, have been acquitted by the learned Additional Sessions Judge, Gurugram on 19.09.2017. The prosecutrix has failed to identify any of the co-accused. Therefore, disclosure statement of such an accused inculcating the petitioner is of no value. Moreover, the petitioner has joined investigation and he undertakes to face the proceedings. Thus, this petition, it is prayed, be allowed.

Certified copy of judgment dated 19.09.2017 filed in Court today is taken on record subject to just exceptions.

Learned counsel for the State is unable to deny that three co-accused, in this case, have been acquitted by the learned trial Court on 19.09.2017. It is further not denied that the petitioner has been nominated as an accused on the basis of a disclosure statement of the co-accused, who now stands acquitted. It is verified, on instructions from ASI Mohd. Zahid, that the petitioner has since joined investigation.

I have considered the contention regarding the bar to the grant of anticipatory bail in cases under the SC/ST Act, but do not find the same to be applicable in the present case. This Court in Mohan Singh's case (supra) while referring to the decision of the Hon'ble Supreme Court in **Vilas Pandurang Pawar and Anr. v. State of Maharashtra and others 2012 (4) R.C.R. (Criminal) 761** allowed the concession of anticipatory bail in a case under the SC/ST Act to the petitioner therein. It is observed that a duty is cast on the Court to verify the averments and find out whether an offence under the SC/ST Act is made out.

Prima facie there do not appear to be any allegations against the petitioner to invite the rigours of the provisions of the SC/ST Act in the present case, though on considering the entire evidence, the learned trial Court may ultimately find the accused to be guilty.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just

and expedient to allow this petition. Consequently, order dated 23.08.2017 is made absolute.

October 27, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No