

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

CRM-M-13604-2017 (O&M)

Date of decision : 05.09.2017

Sandeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. MS Kathuria, Advocate,
for Mr. Rakesh Nehra, Advocate,
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana,
assisted by ASI Hari Om.

JITENDRA CHAUHAN, J. (Oral)

The petitioner seeks pre-arrest bail under Section 438 of the Code of Criminal Procedure, in FIR No.279 dated 19.10.2016 registered under Sections 354-A and 506 of the Indian Penal Code (for short, 'the IPC) and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC&ST Act'), at P.S. Salhawas, Distt. Jhajjar.

It is contended that the FIR was initially registered under Sections 354A and 506 IPC and Section 3 of the SC&ST Act. However, during investigation, Section 506 IPC and Section 3 of the SC&ST Act were deleted. The petitioner was arrested under Section 354-A IPC and produced before the Court of Illaqua Matistrate which released him bail on 02.11.2016. Now, the petitioner apprehends his arrest as the investigating agency again wants to invoke Section 3 of the SC&ST Act.

On the other hand, learned State counsel has opposed the prayer made and states that the allegations against the petitioner are serious in nature. On instructions, she states that during investigation, Sections 506 IPC and Section 3 of the SC&ST Act, were deleted. However, on the recommendation of the learned Public Prosecutor, the provisions of the SC&ST Act have been re-invoked.

Heard.

In ***Gurbaksh Singh Sibbia Etc vs State Of Punjab, 1980 AIR***

1632, Hon'ble the Supreme Court has held as under:-

“15. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested a direction for the release of the applicant on bail in the event of his arrest would generally, be made. On the other hand, if it appears likely considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable

possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail."

In the instant case, the allegations against the petitioner, *inter alia*, are of making remarks against the caste of the complainant, which attracts the rigors of Section 3 of the SC&ST Act. There is no provision under the SC&ST Act for grant of anticipatory bail and bar under Section 18 of the SC&ST Act shall operate.

In view of the above, the instant petition is hereby dismissed.

Anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

05.09.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No