

Criminal Misc. M- No. 20466 of 2017 (O&M)

Date of decision : July 19, 2017

Gurjot Singh and another

.....Petitioners

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Amit Dhawan, Advocate
for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No. 78 dated 23.03.2017 registered under Sections 363, 366A, 376 IPC with Sections 3, 4 of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act'). Sections 67, 67A of Information Technology Act, 2000 (for short 'IT Act') added later at Police Station Women Nakodar, District Jalandhar.

It is submitted that the averments in the FIR or even the statement of the prosecutrix under Section 164 Cr.P.C. recorded on 28.03.2017 does not prima facie reveal the commission of any offence by the petitioners as alleged against them.

It is further contended that the petitioners are not named in the FIR. Allegations are raised only against one Navjot Singh @ Jyoti. It is in the statement under Section 164 Cr.P.C. of the prosecutrix recorded much later on 28.03.2017 that the present petitioners have been named. It is

urged that the petitioners have been named due to their allegiance to the Akali party. They extended their support to the said party in the recent assembly elections. Medical evidence does not corroborate the version put forth by the victim in her statement under Section 164 Cr.P.C. as no injuries – external or internal, were found present on the person of the victim. Learned counsel avers that no offence under the SC/ST Act is made out against the petitioners. He relies upon the decision of this Court in **Mohan Singh versus Satpal 2014 (28) R.C.R. (Criminal) 475** to urge that there is nothing on record to even suggest that the petitioners were aware of the community to which the alleged victim belonged. No such averments are on record, either in the FIR or the statement of the victim under Section 164 Cr.P.C. Similarly situated co-accused have been afforded the benefit of anticipatory bail by this Court vide detailed order dated 26.05.2017 passed in CRM-M No. 16330 of 2017 and CRM-M No. 12624 of 2017. Copy of order dated 26.05.2017 produced in Court today is taken on record subject to just exceptions.

Learned counsel for the State is unable to deny that the petitioners are similarly situated as the other co-accused in the above said petitions. It is further verified, on instructions from ASI Baldev Singh, that the petitioners have joined investigation. Final report under Section 173 Cr.P.C. has since been presented against them. They are facing trial. Charge has not been framed.

I have also 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 petitioners 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 petitioners are likely to abscond or that they are 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 01.06.2017 is made absolute.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

It is made clear that the petitioners shall not try to contact the victim or the witnesses in any manner – directly or indirectly.

July 19, 2017
rts

(Lisa Gill)
Judge

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