

CRM-M-21078-2017

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

CRM-M-21078-2017 (O & M)

Date of Decision:17.08.2017

Hans Raj

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Amit Khatkar, Advocate,
for the petitioner.

Mr. B.S.Virk, DAG, Haryana.

Mr. Munish Kumar Garg, Advocate,
for the complainant.

INDERJIT SINGH, J.

Petitioner-Hans Raj has filed this petition under Section 438 read with Section 482 Cr.P.C. for grant of anticipatory bail in case FIR No.374 dated 25.04.2017, registered at Police Station City Jind, under Sections 323 and 506 of the Indian Penal Code and Section 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, 'SC & ST Act, 1989').

Notice of motion was issued in this case. Learned State counsel put in appearance on behalf of the respondent-State and complainant also appeared through his counsel. They contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

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From the record, I find that as per the FIR, first of all, the caste of petitioner-accused has not been mentioned and secondly it looks that occurrence took place in a fit of anger and the petitioner uttered some words qua caste 'Chamar (dedh)'. There is nothing in the FIR that these words have been uttered with an intention/*mens rea* to humiliate the complainant in public view and intentionally insulted or intimidated with an intent to humiliate the complainant as a member of the Scheduled Caste or Scheduled Tribe.

At this stage, it is a debatable issue whether an offence under Section 3 of the SC & ST Act, 1989 is made out or not, but without discussing the facts of the case in minute details and without expressing any opinion on the merits of this case, I find that since the petitioner has already joined the investigation; he is not required for custodial interrogation and nothing is to be recovered from him, therefore, no useful purpose will be served by sending him to custody. Moreover, a cross-case complaint has already been filed. Therefore, finding merit in this petition, the same is allowed and the order dated 02.06.2017, granting interim bail to the petitioner, is made absolute. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions of Section 438 (2) Cr.P.C.

17.08.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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