

**219-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Misc. No.M- 22548 of 2017 (O&M)

Date of decision : September 07, 2017

Satwinder Singh alias Sidhu

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Pratham Sethi, Advocate
 for the petitioner.

Mr. Devinder Bir Singh, DAG, Punjab.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 29 dated 16.03.2017 under Sections 354A, 341, 506, 323, 34 IPC; Section 3(1) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 (for short – 'SC/ST Act') and Section 7 & 8 of Protection of Children from Sexual Offences Act, 2012 (added later on) (for short – 'POCSO Act') registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

It is submitted that the petitioner has been falsely implicated in this case. Initially, FIR under Sections 354A, 341, 506, 323, 34 IPC was registered against the petitioner and two others on 16.03.2017. Thereafter, without any basis offence punishable under Section 3 (1)(e) of SC/ST Act was added and still further on 19.05.2017 offences punishable under Sections 7 & 8 of POCSO Act were added. Two of the co-accused namely Gurbinder Singh and Chamkaur Singh against whom similar allegations have been levelled in the FIR, have been acquitted by the learned trial Court

on 10.08.2017. The victim, in this case, has denied having made any allegations against the co-accused Gurprinder Singh and Chamkaur Singh though she has stuck to her version regarding the allegations against the present petitioner. The bar for grant of anticipatory bail in SC/ST Act, it is submitted, is not applicable as a bare reading of the FIR itself reveals that no offence under the said provisions is made out. Moreover, the petitioner has joined investigation pursuant to order dated 17.08.2017 passed in this case. It is, thus, prayed that this petition be allowed.

Heard, learned counsel for the parties.

Learned counsel for the State, on instructions from ASI Joginder Singh, verifies that the petitioner has joined investigation.

The factual position as above is not disputed, though it is urged that a case under the SC/ST act is made out against the petitioner alongwith the other provisions of law. It is, however, affirmed that the petitioner is not involved in any other criminal case.

In respect to the bar to grant of anticipatory bail in cases under the SC/ST Act, it is to be noted that in **Mohan Singh versus Satpal 2014 (28) R.C.R. (Criminal) 475** 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** the concession of anticipatory bail was allowed 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. In the present case, the complainant/victim did not allege the commission of any offence punishable under the said Act initially.

The offences were added later. 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 17.08.2017 is made absolute.

September 07, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No