

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

CRL. MISC. No.M-3404 OF 2017
DATE OF DECISION : 26th JULY, 2017

Ashok Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CRL. MISC. No.M-5753 OF 2017

Ram Niwas

.... Petitioner

Versus

State of Haryana

.... Respondent

CRL. MISC. No.M-7345 OF 2017

Rakesh Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. R. S. Cheema, Senior Advocate with
 Mr. A. S. Cheema, Advocate

 Mr. K. S. Dhaliwal, Advocate.

 Mr. Dhiraj Chawla, Advocate for the petitioners.

 Ms. Tanushree Gupta, DAG, Haryana.

 Mr. Shalender Mohan, Advocate for the complainant.

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A. B. CHAUDHARI, J.

The petitioners have filed the present petitions under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking anticipatory bail in FIR No.61 dated 18.01.2017 registered under Sections 306 & 34 IPC; Sections 3(1) R, 3(1) Q, 3(1) S, 3(2) ii, 3(2) V, 3(2) VII of Scheduled

Caste and Scheduled Tribe Act, 1989 (in short 'SC & ST Act') and Section 7/11/13 of the Prevention of Corruption Act, 1988 at Police Station City Jind, District Jind.

Heard learned counsel for the rival parties.

Petitioner-Ram Niwas is a Police Inspector, SHO working at Police Station Julana, District Jind at the relevant time. Petitioner-Ashok Kumar was working as District Controller, Food and Supplies (DFSC) with additional charge of District Manager, Confed Department, Jind and petitioner-Rakesh Kumar was a contractor.

The deceased Ishwar Singh was working as Storekeeper with the Confed Department, Jind and had retired from the services and due to shortage of manpower he was re-employed at D.C. Rate in Confed Department, Jind. The case was registered against the deceased Ishwar Singh for embezzlement in the two trucks of wheat supposed to be delivered to the depot were in fact diverted for being sold in the open market. FIR No.280 dated 30.09.2016 under Sections 120, 379, 420, 467, 468, and 471 IPC was registered at Police Station Julana, District Jind, was lodged against Ishwar Singh and others and the deceased Ishwar Singh along with truck was arrested. Ishwar Singh has suffered a disclosure statement that he has received 10% commission with respect to the said sale of the goods in the open market. Investigation was conducted and Ishwar Singh was found to have been involved in the said offence. Thereafter Ishwar Singh was found to have been involved in the said offence. Thereafter, Ishwar Singh committed suicide and left a suicide note in respect of which the present FIR was registered. The FIR

was lodged by the nephew of Ishwar Singh and there is allegation by the nephew of the Ishwar Singh that because these petitioners had involved Ishwar Singh falsely he had committed suicide and therefore, the petitioners are guilty of abetment of suicide.

Learned senior counsel for the petitioners in these petitions, Mr. R. S. Cheema pointed out to this Court that pursuant to the lodgement of the said FIR, investigation was made to find out whether the FIR No.280 against Ishwar Singh was based on true facts or not. And now the report of the fresh investigation has come in which report has been submitted and in which it is stated that indeed the allegations against Ishwar Singh were true i.e. the last investigation report filed by SIT dated 12.07.2017 which is filed before the appropriate Court where FIR No.280 is pending.

Learned counsel for the complainant vehemently opposed the petition for grant of anticipatory bail filed by these petitioners and argued that offence under Section 3 of the SC & ST Act have also been registered against the petitioners and therefore, the prayer under Section 18 of the SC & ST Act would apply and consequently the petitions for anticipatory bail would not be maintainable. Even on facts he has stated that there are contrary investigation, therefore relief should not be granted.

I have heard learned counsel for the parties at length and perused the record.

Insofar as the power under Section 18 of the SC & ST Act is concerned, I find that merely because it is alleged in the FIR that the

deceased Ishwar Singh belonged to Scheduled Castes, the offence under Section 3 of the SC & ST Act would not automatically be attracted. It is well settled legal position that the power under Section 18 of the SC & ST Act would not apply if the offence under Section 3 of the SC & ST Act is not made out on facts. Here in the instant case I find that in the first place there is absolute no nexus of connection with the caste of the deceased Ishwar Singh as is clear from the narration of the facts made above. I therefore, reject the arguments about the bar under Section 18 of the SC & ST Act.

It is seen from the record that the last investigation report dated 12.07.2017 shows that the allegations against the deceased Ishwar Singh were found to be correct and there is nothing to disbelieve these allegations. At any rate in my opinion, the commission of suicide by Ishwar Singh does not show any live link which is *sine qua non* of the offence under Section 3 of the SC & ST Act.

In that view of the matter, I find that the petitioners could be entitled to grant of anticipatory bail. In the result I make the following order:

ORDER

- (i) CRL. MISC. No.M-3404 OF 2017, CRL. MISC. No.M-5753 OF 2017 and CRL. MISC. No.M-7345 OF 2017 are allowed.
- (ii) Interim order dated 03.02.2017; 21.02.2017 and 06.03.2017, are respectively, made absolute.

26TH JULY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>