

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

**CRM No.M-36592 of 2016 (O&M)
Date of Decision: 15.02.2017**

Mukesh Kumar & others ... Petitioners

Versus

State of Haryana ... Respondent

2.CRM No.M-36600 of 2016 (O&M)

Dayanand & another ... Petitioners

Versus

State of Haryana ... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Angraze Singh Dhindsa, Advocate for the petitioner(s).

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

Mr. R.N. Lohan, Advocate for the complainant.

....

TEJINDER SINGH DHINDSA, J.

This order shall dispose of CRM-M-36592-2016 (Mukesh Kumar & others Versus State of Haryana) and CRM-M-36600-2016 (Daya Nand & another Versus State of Haryana) as both these petitions have been preferred under Section 438 Cr.P.C. read with Section 482 Cr.P.C. seeking concession of anticipatory bail to the petitioners herein in case FIR No.490, dated 02.10.2016, under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Manesar, District Gurgaon.

Counsel for the parties have been heard.

Notice of motion was issued in these two connected petitions in

the light of a common order dated 12.10.2016 and in the following terms:

“Having regard to the allegations in FIR No.490 dated 2.10.2016 registered under Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Annex.P-1). Learned counsel for the petitioners submits that there is no specific words have been attributed to the petitioners which may constitute an offence under the Act. The complaint is generalised. Learned counsel submits that it is not even the case that offensive words were spoken in public so as to injure the complainant who is a staff member of the College working as a Lab Attendant. He belongs to the Scheduled Caste.

These two petitions have been filed under Section 438 of the Cr.P.C. praying for grant of anticipatory bail in the aforesaid FIR to the petitioners in both the petitions who are the Principal, HOD, Sr. Lecturer in Government Polytechnic College, Manesar, Gurgaon in CRM M 36592 of 2016 and Lecturer and Sr.Lecturer in Government Polytechnic College, Manesar, Gurgaon in CRM M 36600 of 2016.

Notice of motion, returnable by 16.12.2016.

In the meanwhile, the petitioners in both the petitions are directed to appear before the Investigating Officer and to join investigation. In the event of arrest, they shall be released on interim bail subject to the satisfaction of the Arresting/Investigating Officer. The petitioners shall join investigation as and when called upon to do so and they shall remain bound by the conditions envisaged under Section 438 2) of the Cr.P.C. ”

Learned State counsel upon instructions from ACP Biren Singh would apprise the Court that the petitioners in these two connected petitions have since joined investigation.

It may be noticed that the complainant Manoj Kumar is working as a Laboratory Attendant at Government Polytechnic College, Manesar. The petitioners herein are the Principal, Head of the Department,

Senior Lecturer and Lectures of the same very institute.

I find sufficient merit in the contention raised by counsel appearing for the petitioners that it is a case of false implication as also malicious prosecution.

As per submission made by counsel appearing for the petitioners, Daya Nand, petitioner No.1 in CRM-M-36600-2016 and who was Incharge of the Store of the institute, had filed a complaint first in point of time against Manoj Kumar on 20.08.2015 as regards the stock register having not been completed inspite of Manoj Kumar being the Incharge/Store Keeper. Further submitted that such complaint having been made to the Principal of the institute was finally marked and forwarded to the Director General, Technical Education, State of Haryana. It may, however, be observed that at this juncture, Mr. R.N. Lohan, Advocate appearing for the complainant submits that he has no instructions in regard thereto. Be that as it may, the document placed on record at Annexure P-3 along with CRM-M-36600-2016 i.e. a communication dated 09.03.2016 addressed by the Principal of the institute and to the Director General, Technical Education Department, Haryana, lends credibility to the stand taken by the counsel appearing for the petitioners.

Yet another aspect and on which the facts are not in dispute are that Manoj Kumar complainant had lodged a complaint dated 25.02.2016 against the petitioners in CRM-M-36600-2016 with regard to derogatory language having been used against his caste and in pursuance thereto, an inquiry was marked and to be conducted by a Committee.

Learned State counsel has apprised the Court that such Committee constituting staff members of other institutions and as such

would be seen as an unbiased fact finding exercise, the petitioners have not been indicated. Mr. Lohan, Advocate would interject to contend that the findings are inconclusive.

From an overview of the facts and circumstances of the case, this Court is prima facie satisfied that FIR has been lodged with a malafide intent and by an employee of the institute and against whom a complaint had been lodged prior in point of time by the senior officials.

In view of the above, I am of the considered view that custodial interrogation of the petitioners is not warranted as they otherwise have joined investigation.

Both the petitions are allowed.

Prayer is allowed. Order dated 12.10.2016 passed by this Court is made absolute.

It is made clear that the observations contained in this order are confined only as regards considering the prayer for grant of anticipatory bail and would have no bearings on the merits of the case.

Disposed of.

15.02.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- | | | |
|-----|----------------------------|-----|
| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |