

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

Criminal Misc. No.M- 40596 of 2017(O&M)

Date of Decision: December 4 , 2017.

Alisha @ Ali

..... PETITIONER (s)

Versus

State of Punjab and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

Mr. Rahul Rathore, DAG, Punjab

None for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.85 dated 28.04.2017 under Sections 354/506 IPC, Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the 'SC/ST Act'), registered at Police Station Sadar Ferozepur, District Ferozepur.

It is submitted that the allegations in the FIR do not constitute any offence under under the SC/ST Act or any of the offences as mentioned. The

petitioner himself belongs to the Scheduled Caste community. Moreover, the misunderstandings due to which this FIR was registered, have since been removed. The complainant in this case does not wish to proceed with the proceedings any longer. In this view of the matter, it is submitted that this petition be allowed.

Heard learned counsel for the parties.

It is noted that the complainant/respondent No.2 appeared in-person before this Court on 09.11.2017. He stated that he does not wish to take any further action against the petitioner in this case. An affidavit dated 09.08.2017 in this respect was informed to have been executed by him.

This matter was adjourned on the request of learned counsel for the State to verify the facts.

Learned counsel for the State, on instructions from HC Gurnam Singh, verifies that the complainant as well as the victim appeared before the police authorities on 17.11.2017 and stated that they no longer wish to take any action against the accused in this case. It is submitted that cancellation report is being prepared. The effect of the stand of the complainant/respondent No.2 is not being commented upon at this stage. The petitioner is verified by learned counsel for the State to have joined investigation. No recovery is to be effected from him. There are no allegations on behalf of the State that the petitioner is likely to abscond, if released on bail.

In respect to the bar for grant of anticipatory bail under the SC/ST Act, it has been held by the Hon'ble Supreme Court in **Vilas Pandurang Pawar and Anr. v. State of Maharashtra and others, 2012(4) R.C.R. (Criminal) 761**

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 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.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. In the event of arrest of the petitioner, he be released on bail to the satisfaction of the Arresting/Investigating Officer. Petitioner shall join investigation as and when required as well as comply with the conditions stipulated in Section 438(2) Cr.P.C.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

December 4 , 2017.
'om'

(**LISA GILL**)
JUDGE

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