

IN THE HIGH COURT OF PUNJAB & HARYANA ^{Lucky}
CHANDIGARH 2017.01.13 16:29

CRM No. M-44077 of 2016 (O&M)
Date of Decision: 12.01.2017

Rajesh Kumar

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Neeraj Sheoran, Advocate for the petitioner.

Mr. C.S. Bakshi, Addl.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in case F.I.R. No.222 dated 06.08.2016 under section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Sections 323, 506 I.P.C, registered at Police Station, Sadar Narnaul.

On 9.12.2016, while issuing notice of motion, the following order was passed by this Court:-

“Learned counsel for the petitioner states that as per FIR, offence under Section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called 'the Act) against the petitioner is not made out, therefore, the anticipatory bail was not maintainable before the Sessions Court but the same has been dismissed on the premises that there is bar under Section 18 of the Act.

Notice of motion for 12.1.2017.

Meanwhile, in case the petitioner appear before the trial Court and moves an application seeking regular bail, the trial Court shall decide the same on the same day.”

Subsequently, an application for modification of such order having been filed and allowed, the following order was passed on 19.12.2016:-

“Prayer in this application is for modification of order dated 09.12.2016 passed by this Court.

Learned counsel for the applicant-petitioner states that due to incorporation of the word “not” in the end of fourth line of first paragraph of the order dated 09.12.2016, the very sense of the order has been changed.

Notice of the CRM.

On asking of this Court, Mr. Arun Kumar, AAG, Haryana accepts notice of the application.

Heard.

For the reasons stated in the application, the same is allowed.

Accordingly, the first paragraph of the order dated 09.12.2016 passed by this Court in CRM-M-44077 of 2016 be now read as under:

“Learned counsel for the petitioner states that as per FIR, offence under Section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called 'the Act) against the petitioner is not made out, therefore, the anticipatory bail was maintainable before the Sessions Court but the same has been dismissed on the premises that there is bar under Section 18 of the Act.”

Learned State counsel upon instructions from ASI Satish Kumar would apprise the Court that the petitioner has since joined investigation.

In the considered view of this Court, custodial interrogation of the petitioner, as such, would not be warranted. Accordingly, the present

petition is allowed. The orders dated 9.12.2016 and 19.12.2016, passed by this Court, are made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

12.01.2017

lucky/yogesh

Whether speaking/reasoned: Yes

Whether Reportable: No