

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

**Crl. Misc. No.M-16307 of 2017 (O&M)
Date of Decision: May 10, 2018**

Puneet Miglani and others

.....PETITIONER(s).

VERSUS

State of Punjab and another

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. M.S. Atwal, Advocate
for the petitioner (s).

Mr. Amandeep S. Gill, Senior D.A.G. Punjab.

Mr. Balram Singh, Advocate
for the complainant/respondent No.2.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioners in Criminal Complaint No.1 of 2014 dated 16.01.2014 titled as '*Vijay Kumar Vs. Puneet Miglani and others*' for the offences punishable under Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short-'SCST Act').

Heard.

Petitioners have been summoned by the Court of Judicial Magistrate, Phagwara vide order dated 05.08.2015 to face trial for the offence punishable under Sections 3 and 4 of SCST Act.

As per complainant, incident took place on 01.02.2013. A complaint was moved by respondent No.2-complainant before the police on 05.02.2013, which after inquiry by Superintendent of Police, Sub Division, Phagwara, was found to be false and following observations were made in the report (Annexure P-11):

“During my investigation, use of any derogatory words regarding caste or hurling abuses by second party Puneet Miglani, Rajat Miglani sons of Suraj Miglani and Suraj Miglani son of late Hira Lal Miglani, residents of Street No.3, Prem Nagar, Phagwara against Vijay son of Sh. Ram Lal, resident of Basant Nagar, Khera Road, Phagwara has not been proved. Therefore, this complaint is recommended to be filed/consigned as there is no truth therein.”

The matter was again inquired by Superintendent of Police, Sub Division, Phagwara and vide report dated 17.07.2013 (Annexure P-12), again the allegations were found false with the observations as follows:-

“From my enquiry conducted so far it has been found openly as well as secretly, that complaint No.42-H dated 14.02.13 and complaint no.61-H dated 07.03.13 which were given by Vijay Kumar against Puneet Miglani, Rajat Miglani sons of Suraj Parkash Miglani and Suraj Parkash Miglani, residents of Street No.3, Mohalla Prem Nagar, Phagwara for uttering caste related words, have been found to be false during the enquiry conducted by the undersigned and Superintendent of Police (Headquarter), Kapurthala. These compolaints have been found to be made by Vijay Kumar son of Sh. Ram Lal, resident of Basant Nagar, Khera Road, Phagwara just to establish his supremacy in the Mohalla and to make Puneet Miglani feel small and

to harass them and this have been consigned to.

Therefore, if you approve then, SHO, Police Station Satnampura be directed to take action under Section 182 of I.P.C. against Vijay Kumar son of Ram Lal, resident of Basant Nagar, Khera Road, Phagwara.”

Calendra under Section 182 IPC against the complainant for filing the false complaint was filed in which he was ordered to be summoned. He has filed petition seeking quashing of Calendra, in which petitioners have moved application to implead them as party and that petition is pending. The petitioners have surrendered before the trial Court and granted interim bail under order of this Court dated 09.05.2017. The question which arise for consideration is as to whether mere summoning of petitioners under Section 3 and 4 of the SCST Act is a reason to decline them the anticipatory bail when the allegations levelled by the complainant was found to be false in police enquiry and complainant is facing trial for filing false complaint.

Learned counsel for the complainant argues that the trial Court has ordered summoning of petitioners as a prima facie case is made out against them. Petitioners have sought quashing of the complaint but their petition was dismissed by this Court. Complainant has also filed petition against Superintendent of Police, Phagwara, who conducted inquiry in another case and an FIR was registered against the complainant. That FIR was quashed and SLP against that order was also dismissed. He also relied on the observations of Hon'ble Apex Court in case of ***Manju Devi Vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh & Others 2017(2) R.C.R. (Criminal) 421.***

have been found false by the police in two inquiries conducted earlier. Proceedings have been initiated against the complainant under Section 182 IPC for filing false complaints. Complainant has filed quashing petition against those proceedings before this Court, which are also stated to be pending. All this put a question mark on the very basis of claim of complainant regarding the incident and accusation against petitioners that they have committed an offence punishable under SCST Act, as such, observations in case of *Manju Devi Vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh & Others (supra)*, are not applicable in the facts and circumstances of this case.

Keeping in view the above facts, I am of the opinion that mere summoning of the petitioners for offences punishable under Sections 3 and 4 SCST Act is no reason to decline them anticipatory bail, particularly when the complaints filed by the complainant have been inquired twice by the police and found false and for filing false complaint, proceedings under Section 182 IPC have been launched against him. The matter is pending before the trial Court and the Court has yet to decide about genuineness of the allegations levelled by the complainant and the legality and validity of the proceedings under Section 182 IPC instituted against the complainant is also to be seen in separate proceedings.

In view of these facts and circumstances but without expressing any opinion on the merits of the case, this petition is allowed and order dated 09.05.2017 is made absolute, subject to the following terms:-

- (i) that the petitioners shall keep on appearing before trial Court regularly;
- (ii) that the petitioners shall not, directly or indirectly, make

any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) that the petitioners shall not leave India without the prior permission of the Court;

May 10, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

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