

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

**CRM-M-29036-2018
Date of decision: 09.10.2018**

Palwinder Singh @ Pappa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Ms. Swati Verma, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.110 dated 19.04.2018, registered under Section 120-B IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, at Police Station Division No.7, District Ludhiana.

The operative part of the order dated 13.07.2018, vide which the petitioner has been granted interim bail, is reproduced below:

“Counsel for the petitioner has submitted that as per the allegation in the FIR, the petitioner and the complainant are in the same business of running taxis and 15-20 days earlier, the petitioner has abused the complainant in the name of his caste without any details and again on 16.04.2018, he repeated the same thing. It is further submitted that a complaint was given to the Police Station on 19.04.2018 and on the same day, ASI Resham Singh registered the present FIR. It is further submitted that even subsequent to registration of the FIR, the father of the

petitioner, who is an Ex-serviceman, aged about 75 years, has also given a complaint to the Commissioner of Police against false implication and with regard to the incident dated 24.05.2018 when the complainant along with 02 police officials forcibly entered the house of the petitioner and in this regard, counsel for the petitioner has relied upon the photographs (Annexure P3) of the CCTV footage. Counsel for the petitioner has also relied upon the judgment “Dr. Subhash Kashinath Mahajan vs State of Maharashtra and another”, 2018(2) RCR (Criminal) 552, wherein the Hon'ble Supreme Court has held that prior to registration of an FIR under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (in short 'the SCT & ST Act'), a preliminary enquiry should be conducted by the Deputy Superintendent of Police of the area in order to avoid false implication of an innocent person and in the instant case, the complaint was moved on 19.04.2018 and on the same day, the FIR was registered without conducting any preliminary enquiry. It is further submitted that it will be a debatable issue to be decided during the course of trial as to whether the offence under Section 3 of the SC & ST Act is made out or not, in view of the fake allegation and not giving any specified date or when the petitioner has allegedly abused the complainant as it is stated in the FIR that the incident is 15-20 days prior to the occurrence.

Notice of motion for 09.10.2018. ”

Learned counsel for the petitioners submits that the petitioner, in pursuance to the order dated 13.07.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, on instructions from ASI Resham Singh, has not disputed the factual position and submits that the petitioner

has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 13.07.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

October 09, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No