

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

Criminal Misc. No.M- 31568 of 2017(O&M)

Date of Decision: January 23 , 2018.

Harinder Singh and others

..... PETITIONER (s)

Versus

Kuldip Kaur and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Achin Gupta, Advocate
for the petitioners.

None for respondent No.1.

Ms. Monika Jalota, DAG, Punjab.

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 petitioners in complaint case bearing No.63 dated 30.07.2013, under Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the 'SC/ST Act') and Sections 452/354/323/506 IPC, titled as 'Kuldeep Kaur v. Harinder Singh and others', pending in the court of the learned Additional Chief Judicial Magistrate, Faridkot.

It is to be noted that this petition was dismissed as infructuous qua petitioner No.4 – Jaskaran Singh on 06.11.2017. Contentions on behalf of the petitioners as noted by this Court while issuing notice of motion on 11.09.2017,

Read as under:-

“It is submitted that the police on investigation had found the complaint lodged by respondent no.1 to be false and incorrect. Moreover, this complaint has been actuated by political rivalry. Petitioner no.8 admittedly won the Panchayat election conducted in the year 2013. It is highly improbable that a candidate who has won the election would indulge in this kind of behaviour along with his supporters. He further relies upon the decisions in **Mohan Singh Vs. Satpal 2014 (28) R.C.R (Criminal) 475** and **Vilas Pandurang Pawar and Anr. Vs. State of Maharashtra and others 2012 (4) R.C.R (Criminal) 761** to submit that a prima facie offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is not made out, therefore, the bar for the grant of anticipatory bail in this case is not applicable.”

It is submitted that petitioners No.1 to 3 and 5 to 9 have thereafter appeared before the learned trial court. They undertake to face the proceedings and not misuse the concession of anticipatory bail, if confirmed. They further undertake to appear on each and every date fixed before the learned trial court. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State has affirmed that petitioners No.1 to 3 and 5 to 9 have appeared before the learned trial court pursuant to interim order dated 06.11.2017 passed by this Court.

It is noticed that none had appeared on behalf of respondent No.1 despite service. This matter was adjourned in the interest of justice on 06.11.2017 for today. However, there is still no representation on behalf of respondent No.1. There is nothing on record to negate political rivalry between the parties.

In respect to the bar of 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

that 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 petitioners 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.

There is nothing on record to indicate that petitioners No.1 to 3 and 5 to 9 are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Interim bail afforded to the petitioners pursuant to order dated 11.09.2017 be made absolute subject to petitioners No.1 to 3 and 5 to 9 submitting fresh bail bonds and surety to the satisfaction of the learned trial court.

It is made clear that the petitioners shall not directly or indirectly try to contact the complainant, any of her family members or witnesses in this case. Any such infraction on the part of the petitioners may entail cancellation of their bail.

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.

January 23, 2018.
'om'

(LISA GILL)
JUDGE

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