

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

CRM-M-7569 of 2017 (O&M)

Date of Decision:30.01.2018

Gura Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.K.Girdhar, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. P.K.Ganga, Advocate
for the complainant.

LISA GILL, J(Oral).

Petitioner seeks the concession of anticipatory bail in FIR No.43 dated 14.02.2017, under Sections 294, 341, 354 IPC read with Section 3 (r) & (w) (i) & (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SC/ST Act), registered at Police Station Kalanwali, District Sirsa.

It is submitted that the petitioner has been falsely implicated in this case. The complainant's husband was in-fact working as a labourer in the fields of the petitioner and his demand for money was not acceded to by the petitioner due to which the present case has been registered as well as due to party faction in the village. Learned counsel for the petitioner argues that at the first instance, FIR was registered under Sections 294, 341 and 354-A IPC. Thereafter, on 15.02.2017, Section 3 of the SC/ST Act & Section 354 IPC was added without there being any occasion for the same. It is vehemently argued that a bare perusal of the FIR itself reveals that the

petitioner is not liable for the commission of the offences as mentioned above. The bar for grant of anticipatory bail under the SC/ST Act is not applicable as the circumstances do not reveal even a *prima facie* case under the provisions of the said Act. No such allegations have been raised by the victim in her statement on the basis of which the FIR was registered. Moreover, the petitioner has since joined investigation, undertakes to face proceedings and not misuse the concession of anticipatory bail, if confirmed.

Learned counsel for the complainant and the State have opposed this petition. However, they are unable to deny that at the outset FIR under Sections 294, 341 and 354-A IPC, was registered and it is subsequently that Section 3 of the SC/ST Act, was added. It is informed by learned counsel for the State that the petitioner is involved in two other criminal cases i.e. FIR No. 324/16 under Sections 285, 427, 148, 149, 506 IPC and FIR No. 143/07, under Sections 323, 341, 34 IPC, though it is not denied that the petitioner has been acquitted in the case arising out of FIR No. 143 of 2007.

Heard learned counsel for the parties.

In respect to the bar to 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. In the present case there *prima facie* do not appear to be any allegations against the petitioner to invite the rigours of the provisions of the SC/ST Act, though on considering the entire evidence, the learned trial Court may ultimately find the accused to be guilty.

On instructions from HC Munesh, learned counsel for the State

informs that the final report under Section 173 Cr.P.C., has been prepared and is likely to be presented in the near future. It is further verified that the petitioner has joined investigation.

There are no allegations on behalf of the State that the petitioner is likely to abscond or influence the witnesses.

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. Consequently, order dated 06.03.2017, is made absolute.

Petitioner shall not attempt to contact the victim or any of her family members/witnesses in any manner. Any such infraction may entail cancellation of bail afforded to him.

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.

30.01.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.