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

CRM-M-27286 of 2019

Date of decision: August 27, 2019

Hari Bhadana

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. J.S. Dhaliwal, Advocate for
Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Rahul Mohan, DAG Haryana.

Mr. Jagjit Singh, Advocate for the complainant.

MAHABIR SINGH SINDHU, J (Oral)

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of anticipatory bail to the petitioner, in FIR No.279 dated 14.05.2019, under Section 447 of Indian Penal Code, 1860 and Sections 3-33-89 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Act'), registered at Police Station Suraj Kund, Faridabad.

As per prosecution case, petitioner along with Manoj Bhadana had forcibly taken over the possession of land pertaining to Balmiki community.

On 25.06.2019, while issuing notice of motion, this Court has passed the following order:-

“Learned counsel for the petitioner contends that assuming the allegations contained in the FIR to be a gospel truth, the same do not make out a case of violation of any of the provisions of Scheduled Castes and Scheduled Tribes Act,

1989. He reads out the contents of the FIR and points out that the only allegation contained in the FIR against the petitioner is that he has tried to encroach the land of the Balmiki Community and due to which the persons of Balmiki Community in the village are tense.

Learned counsel for the petitioner further submits that assuming that the petitioner tried to encroach the land, the same does not attract any provisions of the Act, ibid and, therefore, the bar under Section 18 shall not apply. He further argues that the FIR is nothing but a counter blast to civil proceedings instituted vide civil suit No. 1248 of 2019 in the Civil Court at Faridabad in respect of the same very dispute qua the land mentioned in the FIR about which the allegation of encroachment has been made.

Learned counsel for the petitioner further submits that the petitioner is willing to join investigation and as and when summoned by the Investigating Officer shall make himself present before him and is willing to provide any information and/or document and cooperate in recording of the statement that may be required in course of investigation pursuant to FIR No.279 dated 14.05.2019.

Notice of motion for 24.07.2019.

In the meanwhile, no coercive steps shall be taken qua the petitioner pursuant to FIR No.279 dated 14.05.2019 registered under Section 447 of Indian Penal Code and Sections 3-33-39 of SC and ST Act, 1989 at Police Station Suraj Kund, Faridabad.”

Thereafter, again on 24.07.2019, this Court has passed the following order:-

“Mr. Kunal Dawar, Advocate has filed power of attorney on behalf of the complainant. The same is taken on record.

In the interest of justice, adjourned to 27.08.2019.

In the meanwhile, the petitioner is directed to join the

investigation before the Investigating Officer in terms of order dated 25.06.2019. In the event of his arrest, the Arresting Officer would admit him to interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds to his satisfaction. The petitioner is also directed to abide by all the conditions as envisaged under Section 438 (2) Cr.P.C.”

Learned State counsel, on instructions from Assistant Sub Inspector Mahavir has apprised the Court that in terms of order dated 24.07.2019, petitioner has joined investigation and his custodial interrogation is not required.

Since a civil suit is already pending between the parteis and there are allegations of encroachment of some piece of land, thus, *prima-facie*, provisions of Section 18 of the Act, would not be attracted.

In view of the above, order dated 24.07.2019 granting interim bail to the petitioner, is made absolute subject to the provisions of Section 438(2) Cr. P.C.

Petition stands disposed off, accordingly.

However, it is made clear that the petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

August 27, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No