

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30413-2019

Date of Decision : August 26, 2019

Kuldeep Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. H.S.Maan, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab,
for respondent-State .

SHEKHER DHAWAN, J.

Present petition under Section 438 Cr.P.C. for seeking pre-arrest bail to the petitioner, namely Kuldeep Singh son of Balwinder Singh in case bearing FIR No. 49 dated 21.05.2019, registered under Section 323, 452 read with Section 34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "**the Act**") at Police Station Bareta, District Mansa.

2. Allegations against the petitioner are that the petitioner had given two blows on the left elbow of complainant and one of the accused raised *lalkara* uttering caste related abuse. Thereafter, the petitioner and other co-accused left the house of the complainant uttering caste related abuses.

3. Learned counsel for the petitioner contended that the petitioner

...

has been falsely implicated in this case. The alleged injuries attributed to the present petitioner are on non-vital part and are simple in nature. The offence punishable under Section 3 of the Act is attributed to co-accused Simrandeep Singh alias Soni only.

4. Learned counsel for the petitioner also contended that the alleged offence was not committed at public place or within the public view which is the requirement of Section 3(1)(x) of the Act and as such, no case is made out and at least, the petitioner is entitled for pre-arrest bail. In support of his arguments, learned counsel for the petitioner has placed reliance upon the judgments of this Court in **Rajinder Singh Benipal and another vs. State of Punjab and another, 2015 (3) R.C.R. (Criminal) 665; Smt. Saroj Kumari vs. State of Haryana, 2002(1) R.C.R. (Criminal) 558; Om Parkash Sharma vs. Union Territory Chandigarh, 2001(2) CLR 343.** judgment rendered by Hon'ble Andhra Pradesh High Court in **J. Sumana vs. Endluri Aseerwadamma and another, 2003(2) R.C.R. (Criminal) 503** and the judgment passed by Hon'ble Rajasthan High Court in **Rakesh vs. State of Rajasthan, 1995(4) CCR 238.**

5. Learned State counsel opposed the bail application on the ground that the alleged offence against the accused is of causing of injuries while making forcible entry in the house of the complainant and the occurrence had taken place within the public view as the other neighbours had also seen the alleged occurrence. As per provisions of Section 18 of the Act, there is a complete bar and the present application be dismissed.

6. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that allegations against the petitioner that he had allegedly

...

caused injuries to the complainant after making forcible entry in the house. The said place of occurrence is within the public view as the other family members and neighbours had joined the alleged occurrence and they themselves had seen the occurrence.

7. In **Swaran Singh and others vs. State through Standing Counsel and others, 2008(3) ACR 2674 (SC)**, Hon`ble Apex Court observed that the alleged occurrence should be within the public view and it is not the requirement that the alleged occurrence should be at a public place only.

8. As regard to bar against anticipatory bail in such like cases, Hon'ble Apex Court of India in **Vilas Pandurang Pawar and another vs. State of Maharashtra and others, 2012(4) R.C.R. (Criminal) 761** observed that Section 18 of the Act would create a bar for invoking Section 438 of Cr.P.C.

9. In the light of the above observations having been made by Hon`ble Apex Court and the facts of the present case and the allegations against the petitioner, the facts of the present case are certainly distinguishable from the judgments relied upon and referred to by learned counsel for the petitioner.

10. In view of the above, there is no merit in the present petition and no ground is made out to release the petitioner on pre-arrest bail. The present petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 26, 2019

som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes