

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

**CRM-M-32341-2019
Date of decision-09.12.2019**

Bharti

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vaibhav Sharma, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.0064 dated 07.02.2019 under Section 3 (1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 120-B, 406, 467, 468, 471 and 506 of Indian Penal Code, 1860 registered at Police Station Sadar Hisar, District Hisar, Haryana. The petitioner apprehended her arrest at the hands of Police.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 21.08.2019 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel for the petitioner contends that the alleged dispute as per complainant arose in August 2018, whereas FIR No.0064 was registered belatedly on 07.02.2019. According to him, the dispute between the parties

is regarding breach of an agreement to sell which is purely of civil nature. He submits that the offence punishable under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short the Act) may not be made out particularly when the petitioner herself belongs to the scheduled caste. Since the provisions of Section 438 Cr.P.C are not applicable in view of Section 18 of the Act, therefore, present petition is treated under Section 482 Cr.P.C as there are reasonable grounds to exercise the said jurisdiction.

Notice of motion for 09.12.2019.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on her furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer.

Let Mr. D.R.Chalia, Additional Sessions Judge, Hisar furnish an explanation as to how power under Section 156 (3) Cr.P.C was exercised by the Court of Sessions while entertaining the complaint directly on 30.01.2019, which is prima facie in violation of the provisions of Code of Criminal Procedure”.

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted herself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by ASI Ram Singh does not dispute this fact that the petitioner has joined the investigation. Learned counsel on instructions from ASI Ram Singh further states that the petitioner is not required for custodial interrogation for the time being.

In compliance of the order dated 21.8.2019, explanation of Mr. D.R. Chalia, Addl. Sessions Judge/Fast Track Court, Sonipat (the then Presiding Officer, Hisar) has been received. A perusal of the same reveals that the officer relied upon a judgement in **Suresh Sharma vs. The State of Haryana and another, Criminal Revision No.269 of 2012** in the order dated

30.1.2019, whereas, the said order does not contain the reference of the above judgement. Even otherwise, this judgement relates to the offence under the Prevention of Corruption Act, which is a special statute and contains a specific provisions regarding cognizance by the Special Court.

The explanation received is not found satisfactory, however as the said offence under SC/ST Act/complaint is no more alive, therefore, this issue is laid to rest and no further orders are called for.

Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 21.08.2019 is made absolute.

(MANOJ BAJAJ)
JUDGE

09.12.2019

Gulati/vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No