

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39405-2019 (O&M)
Date of decision: 04.10.2019

Jai Kishan and another

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Loveleen Dhaliwal, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Arjun Sheoran, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.128 dated 16.07.2019 under Sections 323, 341, 427, 147, 506, 149 IPC, registered at Police Station Pilukhera, District Jind.

While granting interim bail to the petitioners, following order was passed by this Court on 13.09.2019: -

“...Learned counsel for the petitioners submits that initially, the FIR was registered under Sections 323, 341, 427, 147, 506, 149 IPC and the petitioners were granted the concession of bail by the Illaqa Magistrate vide order dated 31.07.2019 and thereafter, the police has added Section 325 IPC and Section 3 (2) (Va) of

SC&ST Act. It is further submitted that in the FIR, there is no allegation, for which the SC&ST Act could be invoked. Learned counsel further submits that in fact, wife of petitioner No.1 is Sarpanch of village and due to political rivalry, the present FIR has been registered.

*Learned counsel for the petitioners has relied upon judgment of the Hon'ble Supreme Court in **Manoj Suresh Jadhav and ors. Vs. The State of Maharashtra, 2018 (5) RCR (Crl.) 397**, wherein it is held that on addition of new offence in the FIR, a person may not be arrested by ignoring the earlier bail order and without obtaining the order from the Court....”*

Learned counsel for the petitioners submits that from bare perusal of the FIR, there is no allegation that the complainant either belongs to SC/ST category or the petitioners knew that he belongs to SC/ST category and therefore, the police, while registering the FIR, did not invoke the provisions of Section 3 (2) (Va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘SC&ST Act’). It is further submitted that in pursuance of the aforesaid order, petitioners have joined the investigation and are not required for any further investigation.

Learned State counsel, on instructions from ASI Ram Chander, has not disputed the factual position and states that the petitioners are no more required for any further investigation.

Learned counsel for the complainant has however submitted that as per provisions of Section 18A of SC&ST Act, there is no requirement of any inquiry for registration of the FIR and no approval is required for arrest of the

accused person.

After hearing learned counsel for the parties, considering the fact that since in the FIR, no such allegations were levelled, the Investigating Officer, who arrested the petitioners, at the first instance and thereafter, released him on bail, had no occasion to invoke the provisions of Section 3 (2)(Va) of SC&ST Act.

Accordingly, this petition is allowed and the interim bail granted to the petitioners vide order dated 13.09.2019 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

Anything observed in this order shall have no bearing on merits of the case.

[ARVIND SINGH SANGWAN]
JUDGE

04.10.2019
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No