

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45368-2019

Date of Decision: 15.11.2019

Chand Singh and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jasmail Singh Brar, Advocate,
for the petitioners.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. Surender Garg, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

On 24.10.2019, the following order had been passed:-

“It not having been shown so far that there is any witness to the alleged occurrence of derogatory words pertaining to the caste of the complainant, though of course such an offence is a non-bailable offence, whether the Court is to accept that simply on a statement of a person, thereby accepting it to be the absolute truth that any such words were uttered, and thereby denying him the concession of anticipatory bail, in my opinion would be putting the cart before the horse.

Consequently let notice of motion be issued, returnable on 15.11.2019.

In the meanwhile, upon the petitioners joining investigation, in case they are sought to be

arrested, they would be admitted to interim bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. They shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioners in investigation, they would appear before the learned Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation.

It is to be specifically noticed that Mr. Surinder Garg, who had appeared on the first call, and Mr. Yadav, learned counsel who appeared on the second call, for the complainant (even before notice of motion was issued), have both vehemently opposed the grant of bail, on the ground that Section 18A of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989, prohibits grant of anticipatory bail.

However, for the reasons recorded as above, the interim bail is being granted to the petitioners at this stage, with the matter to be, naturally, considered further on the next date.

Today, learned State counsel, on instructions from the police official who is present in Court to assist him, submits that the petitioners have joined investigation and their custodial interrogation is not required.

However, learned counsel for the complainant submits that with the petitioners having threatened a public officer while he was discharging his duty and having also uttered derogatory remarks as regards his caste, they do not deserve to be continued on anticipatory bail.

Having considered the aforesaid contention, without making any comment on the actual merits thereof, but only for the purpose of this petition

seeking anticipatory bail, what is to be noticed by this Court is that, admittedly, there is no injury on the person of the complainant or any other public official.

Therefore, whether this Court is to believe as the gospel what a public servant has stated, or whether the complete denial of the incident as per the petitioners, is to be accepted (by this Court), would be a moot question in the absence of any independent witness so far at least shown to corroborate the version of one side or the other.

Consequently, in any case with the investigating agency stating that they do not require the custodial interrogation of the petitioners, I see no reason to not make the order passed on 24.10.2019 absolute.

Ordered accordingly.

The petition is disposed of.

However, it is made clear that all observations made in this petition are only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C., and as regards the merits of the case, that would be, naturally, subject matter of evidence gathered in the investigation and led before the trial Court (if it comes to that stage).

November 15, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.