

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

202

**CRM-M-9234-2020(O&M)
Date of Order:29.10.2020**

SANDEEP

..Petitioner

Versus

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Chaudhary, Advocate,
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

No doubt, the petitioner has joined the investigation pursuant to interim order passed by this Court. However, learned the State counsel has asserted that the petition is not maintainable in view of the bar under Section 18 of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

The facts of the case have been noticed by the learned Additional Sessions Judge, Fatehabad, in paragraph 2 of its order dated 24.02.2020, which are extracted as under:-

As per police reply, complainant Rekha Rani moved written complaint to the police on 18.02.2020, alleging that on the previous night of 17.02.2020, at about 10.30 P.M., when she was present at her house with her children and her husband was away to Haridwar, present petitioner/accused Sandeep knocked door of her house and called her husband. The complainant opened door of her house and told accused/petitioner that her husband was away to Haridwar. Thereupon present petitioner Sandeep demanded condom, to which the complainant replied

that the same be obtained in the morning. Thereupon the petitioner abused the complainant in caste name and caught hold of her hand indulged in a scuffle with her. The complainant rescued herself and closed the gate of her house. The accused/petitioner gave brick blows on the door of the house of the complainant. The complainant informed her family members whereupon Budh Ram, Subhash and Sanjay reached at the spot. Thereupon the petitioner left the spot. The complainant alleged that she is residing in the government quarter and her husband is working as Sweeper-cum-Chowkidar in Primary Health Centre village Jhalania. On the basis of the said complaint, the present case was registered. Investigation was carried out. The facts were verified by Sh. Subhash Chander, DSP, City Fatehabad. The present petitioner is sought to be arrested in this case.”

On 07.09.2020, learned counsel for the petitioner made a statement that the FIR is a result of dispute with relation to a financial transaction between the petitioner and first informant's husband.

Keeping in view the aforesaid statement, the case was adjourned to 03.10.2020. Thereafter, the case was taken up on 05.10.2020, when the following order was passed:-

Learned counsel appearing for the petitioner has pointed out that the Deputy Superintendent of Police, during the course of investigation, has recorded the statements of five witnesses to the effect that the real dispute between the petitioner and the first informant and her family is arising from the monetary transactions.

Mr. Chetan Sharma, Assistant Advocate General, Haryana, prays for a short adjournment to confirm this fact and assist.

List on 29.10.2020.

In the meantime, the interim order dated 21.05.2020, shall remain operative.”

The Deputy Superintendent of Police, Fatehabad, has filed an affidavit stating therein that the statements as alleged by the learned counsel for the petitioner have not been recorded and in the entire investigation, the factum of existence of monetary transaction has not come on record.

In the present case, allegations are that the petitioner asked for a condom from the first informant and since she asked the first informant to come in the morning, he started hurling abuses with reference to her caste and caught hold of her hands which lead to a scuffle. The petitioner also started throwing bricks at the gate of the first informant.

Keeping in view the aforesaid facts, no ground to grant the concession of pre-arrest bail to the petitioner is made out, particularly in view of the bar contained in Section 18 of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

Hence, dismissed.

October 29, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No