

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16814-2020 (O&M)

Date of Decision: 29.06.2020

Rajpal

.. Petitioner

Vs.

State of Hayrana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Madan Sandhu, Advocate for the petitioner.

Mr. Pardeep Chahar, DAG, Haryana.

Mr. Jaiveer Yadav, Advocate for the complainant.

...

Manoj Bajaj, J.

Petitioner has filed this petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for grant of anticipatory bail in a case FIR No. 168 dated 24.04.2020, under Section 509 IPC, 1860 and Section 3(1) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Kurukshetra University, District Kurukshetra. He apprehended his arrest at the hands of Police in the above said FIR.

The FIR was lodged on the basis of a complaint given by complainant, namely, Dr. Saroj Bala w/o Parmod Kumar Ranga, wherein it was alleged that she was residing in Kurukshetra University, Kurukshetra Campus for the last more than 10 years and the accused shifted in house No. C-44 some time ago, situated in her neighbourhood. As per the allegations, accused misbehaved with the complainant and her husband on 14.04.2020 and asked her to remove the tree leaves, which had fallen from the trees,

situated on the other side of the campus as it was her duty being Chamar by caste. According to the complainant, the accused told her that he was driver of the Vice-Chancellor and he also used abusive language and addressed her in the name of community and insulted her. On these broad allegations, the above FIR was registered for the offences punishable under Section 509 IPC, 1860 and Section 3(1) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner contends that the alleged occurrence was not witnessed by anyone and, therefore, it is debatable, if the offence is complete. It is pointed out that pursuant to the order dated 17.06.2020 passed by the learned Addl. Sessions Judge, Kurukshetra, the petitioner has already joined the investigation. According to him, though the application for pre-arrest bail filed by the petitioner was finally dismissed on 22.06.2020, however, in the given facts, the custodial interrogation of the petitioner may not be necessary.

On the other hand, Mr. Jaiveer Yadav, learned counsel appearing on behalf of the complainant has opposed the prayer on the ground that the petitioner misbehaved with the senior Professor of the University by using the abusive language against her. He submits that the offence is under a special statute, wherein the provisions of Section 438 Cr.P.C. would not be applicable. According to him, it is for this reason, the learned Addl. Sessions Judge, Kurukshetra dismissed the pre-arrest bail application of the accused.

Mr. Parmod Chahar, DAG, Haryana, who is assisted by DSP Jagdish Chander, does not dispute this fact that the petitioner had joined the investigation pursuant to the order dated 17.06.2020 and he on instructions

further states that for the time being, the custodial interrogation of the petitioner is not necessary.

After hearing the learned counsel for the parties and considering the facts and circumstances of this case, this Court finds that though the provisions of Section 438 Cr.P.C. have been curtailed by virtue of Section 18-A of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, but at the same time, in a given case, where the reasonable grounds exist, the inherent powers under Section 482 Cr.P.C can be invoked to protect the person against arrest for such an offence. Considering the background of this case, particularly the stand of the learned State counsel, this Court does not find any reason to decline the prayer made by the petitioner as there exists reasonable grounds for exercise of inherent powers.

Resultantly, the petition is allowed and it is ordered that in the event of arrest of the petitioner, he shall be released on bail subject to his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer.

29.06.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No