

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

CRM-M-19895-2020

Date of decision:-27.7.2020

Surender Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vikram Rana, Advocate for the petitioner.

Mr.Karan Sharma, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Surender Kumar, an accused in FIR No.344 dated 23.7.2019 for the offences under Sections 323, 452, 506 & 34 IPC and Section 3 of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the Act), registered with Police Station SGM Nagar, District Faridabad.

In nutshell, the facts of the case are that complainant Mithlesh Devi, a resident of Sanjay Gandhi Memorial Nagar, Faridabad had submitted a written complaint to the police of Police Station S.G.M. Nagar, NIT Faridabad against Surender Kumar (present petitioner), his wife Usha, daughter Poonam besides Veena wife of Raju, wherein she contended that she belongs to a scheduled caste, whereas the accused

belong to Thakur community; on 20.7.2019 at about 4:00 p.m., such accused forcibly closed the water valve, which was outside to her house and tried to damage it and when she and her family members offered resistance, all such persons trespassed in her house, gave her fist and leg blows; Bunty minor son and Ritu daughter of complainant were also given beatings by the assailants; all of them abused the complainant and her family members in the name of their caste; due to intervention of Vedpal Nagar, Rana and Munna Lal, the accused left the house of the complainant; After recording of formal FIR, the investigation in the case started.

Apprehending his arrest in this case, the petitioner/accused had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Faridabad vide order dated 9.7.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition is given to respondent – State. Mr.Karan Sharma, AAG, Haryana has put in appearance on behalf of respondent – State and accepts notice on behalf of respondent – State.

I have heard learned counsel for the parties besides going through the records.

The allegations in the FIR with regard to the accused abusing the complainant in the name of her caste come within the mischief of Section 3 of the Act. Section 18 of the Act clearly provides that the provisions of pre arrest bail under Section 438 Cr.P.C. shall not apply in relation to any case involving the arrest of any person on an accusation of

having committed an offence under the Act. Therefore, the petition for grant of pre-arrest bail at the instance of petitioner is not maintainable keeping in view the facts and circumstances of the case.

The judgment passed by this Court in CRM-M-42433-2019 titled '*Ravinder Versus State of Haryana*' and judgment passed by Hon'ble Apex Court in Writ Petition(C) No.1015 of 2018 titled '*Prathvi Raj Chauhan Versus Union of India & Ors.*', referred to by learned counsel for the petitioner do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Thus finding no merit in the petition, the same stands dismissed.

27.7.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No