

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

209

CRM-M-24973-2020

Date of decision: 08.10.2020

Vikas and another	Versus	Petitioners
State of Haryana		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Brijender Kaushik, Advocate
for the petitioners.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

Mr. Gaurav Gupta, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioners-**Vikas and Mohit** have filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.173 dated 29.07.2020 registered at Police Station Shahzadpur, Ambala under Sections 323, 341 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC") and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the SCST Act") to which Section 325 of the IPC was added lateron.

While issuing notice of motion on 28.08.2020, this Court had granted interim anticipatory bail to the petitioners with direction to join the investigation.

The petition has been opposed by learned State Counsel.
However, no reply has been filed by learned State Counsel.

The petition has also been opposed by the complainant who

appeared through Mr. Gaurav Gupta, Advocate who has filed copy of his power of attorney through e-mail print out of which is taken on record. Original power of attorney be filed in the registry.

I have heard learned Counsel for the petitioners as well as learned State Counsel and learned Counsel for the complainant and have gone through the record.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the present case. The complainant was driving his auto rashly and hit the motorcycle of the petitioners who suffered injuries. No action was taken on application of the petitioners which was entered as DDR No.534 of 21.07.2020. Present FIR was registered after nine days of the occurrence. There is no mention of presence of anyone other than the complainant and his mother at the time of occurrence. There is nothing on record to show how the petitioners knew about their caste. What caste remarks were made is also not mentioned. Prima facie case as to commission of offence under Section 3 of the SCST Act is not made out. In compliance with order dated 28.08.2020, the petitioners have joined the investigation. Nothing is to be recovered from them and their custodial interrogation is not required.

On the other hand, learned State Counsel and learned Counsel for the complainant have submitted that the petitioners wrongfully restrained the complainant, caused simple and grievous injuries to him and made casteists remarks attracting the provisions of Section 3 of the SCST Act. In view of gravity of accusation, the petitioners do not deserve grant of anticipatory bail.

However, learned State counsel has, on instructions from

DSP Anil Kumar, has acknowledged that in compliance with order dated 28.08.2020 passed by this Court, the petitioners have joined the investigation and that their custodial interrogation is not required for effecting any recovery.

In the present case, petitioner No.1-Vikas himself belongs to Balmiki Caste and cannot be said to have committed offence punishable under Section 3 of the SCST Act and the alleged acts attributed to him will not fall within the ambit of Section 3 of the SCST Act. Even if any such remarks are made by petitioner No.2-Mohit, no person other than the complainant was present on the spot at the time of making such remarks to substantiate these allegations. Debatable question arises as to whether offence under Section 3 of the SCST Act is made out or not.

In view of the facts and circumstances of the case, particularly the fact that custodial interrogation of the petitioners is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioners deserve the concession of anticipatory bail.

Therefore, the petition is allowed and order dated 28.08.2020 granting interim bail to petitioners- **Vikas and Mohit** is made absolute. However, petitioners- **Vikas and Mohit** shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to them.

08.10.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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