

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

CRM-M-24317-2019

Date of decision:-18.2.2020

Bhajan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Mr.K.S. Sekhon, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr.G.S. Sandhu, Advocate
for respondent No.2.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Bhajan Singh, an accused in FIR No.49 dated 21.4.2019, under Sections 323/379-B/506 IPC, 25 of Arms Act and Section 3(1)(x) of the SC & ST Act (Prevention of Atrocities) Act, 1989, registered with Police Station Kabarwala, District Sri Muktsar Sahib.

Briefly stated, the facts of the case as per the prosecution story are that on 13.4.2019, present petitioner Bhajan Singh serving in Punjab Police went to Koliyanwali Filling Station situated at village Koliyanwali and got diesel of the value of Rs.2,050/- filled in his Swift car but he did not pay the cost of the diesel and went away in his car using foul language. He again went there on 19.4.2019 at 10:30 p.m. and

wanted diesel to be filled in his Swift car. However, complainant Adesh Kumar son of Ram Parsad aged about 22 years, working as Salesman at the said petrol pump asked him to pay the previous dues first, hearing that petitioner Bhajan Singh flew into a rage and used abusive language for complainant Adesh Kumar passing casteist remarks. The complainant felt insulted. Petitioner Bhajan Singh assaulted the complainant and gave him beatings. He took out a pistol and put it on temple of the complainant. He removed Rs.5,850/- from the shirt of complainant. When several people gathered at the spot, Bhajan Singh left that place along with his pistol and Rs.5,850/- removed from the pocket of complainant in his Swift car. On the basis of statement of complainant Adesh Kumar, formal FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Judge, Special Court, Sri Muktsar Sahib vide order dated 8.5.2019. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

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

Learned counsel for the petitioner has contended that complainant does not belong to a scheduled caste or a scheduled tribe, rather he belongs to Maali community, which is neither a scheduled caste

nor scheduled tribe, as such no offence under SC & ST Act (Prevention of Atrocities) Act, 1989 is disclosed.

Whereas learned counsel for the complainant has contended that the complainant belongs to a scheduled caste i.e. Chamar community and thus offence under SC & ST Act (Prevention of Atrocities) Act, 1989 is certainly made out against the petitioner.

I find that as the things stand, from the investigation carried out by the police so far, prima facie offence under Section 3(1)(x) of SC & ST Act (Prevention of Atrocities) Act, 1989 is disclosed against the petitioner. It being so, Section 18 of the said Act specifically bars grant of pre arrest bail to the present accused of offence under the said Act. The trial Court has observed that fact and rightly declined the relief of pre-arrest bail. The petitioner is a police official. He is supposed to be a disciplined and law abiding citizen. His using abusive and casteist language towards the complainant cannot be taken lightly. His criminal acts are said to be captured by CCTV cameras. Some photographs taken out of the same have been placed on file by the complainant. According to the counsel for the complainant the petitioner is involved in six more criminal cases. Though the petitioner has joined the investigation but then the money belonging to the complainant said to have been taken away by him is yet to be recovered.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case

like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

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

18.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No