

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

202(1)

**CRM-M-26333-2020(O&M)
Date of Order:05.10.2020**

ANKUSH

..Petitioner

Versus

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.C.Shahpuri, 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.

On 07.09.2020, the following order was passed:-

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

The petitioner-Ankush prays for grant of pre-arrest bail in a criminal case arising from FIR No.228, dated 02.07.2020, registered under Section 147/149/323/341/506 IPC and Section 3(1)(S) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (added later on), at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

In brief, the case of the prosecution is that in a scuffle, Aman Wrestler and Parvej gave a brick blow to the first informant on his back and shoulder, whereas the remaining persons gave fist and leg blows.

Learned counsel for the petitioner contends that the occurrence is of 29.06.2020, whereas the FIR was registered on 02.07.2020. He further contends that in order to falsely implicate the petitioner under The Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act 1989, a supplementary statement was given on 07.07.2020 so as to include the allegations of offence under the Schedule Castes and Schedule Tribes

*(Prevention of Atrocities) Act, 1989. He contends that the offence under the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 has been added malafidely keeping in view the bar to the maintainability of petition under Section 438 Cr.P.C. In support thereof, he relies upon the judgment passed by the Hon'ble Supreme Court in **Dr. Subhash Kashinath Mahajan vs The State Of Maharashtra and another (2018) 6 SCC, 454** . He contends that the conclusion drawn in paragraph 79.2 of the judgment has never been over ruled either in the review petition or thereafter, in **Prathvi Raj Chauhan vs Union Of India and others 2020 SCC online SC 159** .*

Notice of motion for 03.10.2020.

On the request of this court, Mr. Chetan Sharma, AAG, Haryana, accepts notice on behalf of the State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel appearing for the State, on instructions from DSP Subhash Chand, has submitted that the petitioner has joined the investigation, cooperated and is not required for further custodial interrogation.

Keeping in view the aforesaid facts, the interim order dated 07.09.2020, passed by this Court, is made absolute.

Accordingly, the present petition is allowed.

October 05, 2020
nt

(ANIL KSHETARPAL)
JUDGE

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