

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

101

**CRM-M-28292-2020(O&M)
Date of Order:03.11.2020**

MUNISH KUMAR ZAKHMI

..Petitioner

Versus

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.P.S.Deol, Sr. Advocate, with
Mr. H.S.Deol, Advocate,
for the petitioner.

Ms. SaminaDhir, DAG, Punjab

Dr. Anmol Rattan Sidhu, Sr. Advocate, with
Mr. Amit Kumar Saini, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

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

On 17.09.2020, the following order, was passed:-

“The petitioner prays for grant of pre-arrest bail in a criminal case arising from FIR No. 226 dated 25.08.2020, registered under Section 3(1)r of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the 1989 Act”) and Section 66-A of the Information Technology Act, 2000 at Police Station Sardulgarh, District Mansa.

The petitioner is a practicing advocate. He, on behalf of his client, filed a criminal complaint against various persons including the local Deputy Superintendent of Police, namely SanjeevGoyal on 27.09.2017. It is alleged that the aforesaid Deputy Superintendent of Police had threatened the petitioner that he would personally involve the petitioner in a false case .

On the oral request made by the learned senior counsel for the petitioner, Sanjeev Goyal, Deputy Superintendent of Police, Sub Division Sardulgarh, District Mansa is impleaded as respondent No.2.

Learned senior counsel appearing for the petitioner contends that the alleged facebook post does not contain aspersion to make out any offence under the provisions of the 1989 Act. Learned counsel appearing for the first informant as well as Mr. Pawan Sharda learned counsel appearing for the State of Punjab also admit that Annexure P2, the alleged facebook post, does not contain any such aspersion.

*No doubt, in view of the provisions of Section 18 of the 1989 Act, prayer for grant of anticipatory bail is barred, however, the Supreme Court in **Dr Subhash Kashinath Mahajan Vs State of Maharashtra and others (2018) 3 SCC (Criminal) 124** has held that if the Court finds that no prima facie case is made out or the complaint is prima facie malafide, the Court is not debarred from entertaining an application for grant of anticipatory bail. This part of the judgment has never been overruled in the subsequent judgments by the Hon'ble Supreme Court.*

Notice of motion.

On the request of the Court, Mr. Pawan Sharda, Senior Deputy Advocate General, Punjab accepts notice on behalf of the respondent and prays for time to seek instructions.

Mr. Damanjeet Singh, Advocate, has put in appearance on behalf of the first informant.

Let notice be also issued to the newly added respondent No. 2-Sanjeev Goyal, Deputy Superintendent of Police, Sub Division Sardulgarh, District Mansa for the date fixed.

Keeping in view the aforesaid facts, it is considered appropriate to let the petitioner join investigation.

In the event of arrest of the petitioner, he shall be released on interim pre-arrest bail subject to his 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 Senior Deputy Advocate, Punjab has been requested to inform newly added respondent no. 2-Sanjeev Goyal, Deputy Superintendent of Police, Sub Division Sardulgarh, District Mansa of the next date of hearing.

List on 07.10.2020."

Thereafter on 07.10.2020, the following order, was passed:-

“Sh. Thind, learned State counsel has submitted that the petitioner has joined investigation, cooperated and not required for further custodial interrogation.

Sh. Amit Kumar Saini, Advocate has put in appearance on behalf of respondent no.2- SanjivGoel, Deputy Superintendent of Police, Sub Division Sardulgarh, District Mansa and informed the Court that a detailed reply has been forwarded on the official email of the Court. He prays for some more time to assist this Court.

Adjourned to 14.10.2020.

The office is directed to take a print out of the reply and place the same on file.

In the meantime, interim order dated 17.09.2020 would continue.”

Ms. Samina Dhir, DAG, Punjab, on instructions from the Investigating Officer, has informed the Court that the petitioner has joined the investigation, cooperated and is not required for further custodial interrogation.

Dr. Anmol Rattan Sidhu, Sr. Advocate, who appears for respondent no.2, has also submitted that he has no objection to the confirmation of the order dated 17.09.2020.

Keeping in view the aforesaid facts, the interim order dated 17.09.2020, passed by this Court is made absolute.

Accordingly, the present petition is allowed.

November 03, 2020

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No