

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

201

CRM-M-30447-2020(O&M)

Date of Order:05.11.2020

AJAY RANA

..Petitioner

Versus

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

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

On 30.09.2020, following order was passed:-

“The petitioner prays for grant of pre-arrest bail in a criminal case arising from FIR No.228 dated 02.07.2020 registered under Sections 147/149/323/341/506 of the Indian Penal Code, 1860 and under Sections 3 (1) (S) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989, which is added later on after 07.07.2020 on the basis of supplementary statement of complainant, at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

Learned counsel for the petitioner has drawn attention of the Court to the order dated 07.09.2020 passed in the case of Ankush Vs. State of Haryana in CRM-M-26333 of 2020, which is extracted as under:-

“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 for the petitioner contends that the role attributed to the petitioner and Ankush, is same.

Notice of motion.

Mr. Chetan Sharma, AAG, Haryana accepts notice on behalf of the respondent-State and seeks time to get instructions.

Adjourned to 05.10.2020

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.

To be heard alongwith CRM-M-26333 of 2020.”

Learned State counsel, on instructions from the Investigating Officer, has submitted that the petitioner in this case has joined the investigation, cooperated and is not required for further custodial interrogation.

In view thereof, interim order dated 30.09.2020, passed by this Court is made absolute.

Accordingly, the present petition is allowed.

November 05, 2020
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(ANIL KSHETARPAL)
JUDGE

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