

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

(1)	CRM-M-55813 of 2018 (O&M)	
Pritpal Singh and others		...Petitioners
	Versus	
State of Punjab		...Respondent
(2)	CRM-M-464 of 2019 (O&M)	
Amritpal Singh		...Petitioner
	Versus	
State of Punjab		...Respondent

Date of decision: 22.01.2020

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

Present: Mr. Vipin Mahajan, Advocate for the petitioner(s).

Ms. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Arun Abrol, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

This order will dispose of above mentioned two petitions as both pertain to the same FIR.

Briefly stated facts of the case as per prosecution version are that complainant Harbhajan Singh son of Khazan Singh, resident of Village Kuthi, an Ex.Serviceman had submitted a written complaint addressed to SHO, Police Station Dorangla, Gurdaspur, wherein, he mentioned that on 29.11.2017, marriage ceremonies of his younger son

Baljinder Singh were going on in the street. In the meanwhile, Pritpal Singh son of Gurdial Singh driving a tractor trolley came there and asked the persons present there to make way, so that he could pass his tractor trolley. When some of those persons asked him to wait for some time, Pritpal Singh got infuriated and tried to take ahead the tractor trolley forcibly. Pritpal Singh started giving abuses in the name of caste of the complainant. He attacked several persons forming the marriage party and gave filthy abuses. Pritam Singh son of Bishan Singh abetted him for doing so. On the basis of such complaint, formal FIR dated 30.11.2017 was recorded for offences under Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') and Sections 323, 279 and 149 IPC. Thereafter, the matter was investigated. Pritpal Singh son of Gurdial Singh had submitted an application to the police for cancellation of FIR, which was enquired into by DSP (HQ) Gurdaspur, who came to the conclusion that no offence under Section 279 IPC and Section 3 of the Act was disclosed; remaining offences under Sections 323 and 149 IPC were non-cognizable and furthermore, both the parties had entered into a compromise, therefore, cancellation report be prepared and filed in the Court. Accordingly, cancellation report was prepared, however, Deputy District Attorney (Legal), Gurdaspur raised certain queries. Thereafter, the challan was prepared and filed in the Court.

Apprehending their arrest, the petitioners had approached the Court of Sessions, seeking pre-arrest bail but were unsuccessful there. As

such, they have knocked at the door of this Court, craving for grant of similar relief.

The applications are being resisted by the State counsel and counsel for the complainant.

Learned counsel for the petitioners has contended that as a matter of fact, no such incident had taken place. The DSP (HQ) Gurdaspur had found most of the allegations leveled by the complainant to be false. The matter had been compromised also. A cancellation report had been prepared but on account of the objections raised by DDA (Legal), it was not filed in the Court and rather, the challan had been filed. The petitioners have not committed any offence. As such, they deserve to be granted pre-arrest bail. In support of his contentions, he has referred to various judgments, firstly **Dr. Onkar Chander Jagpal & Anr. Vs. UT Chandigarh & Anr., 2012 (1) RCR (Criminal) 931** by a Single Judge of this Court, wherein, it was observed that mere utterances of offending words will not constitute an offence under the Act in absence of intention or mens rea to humiliate the member of Scheduled Caste in public view. He has referred to further judgments in support of his contentions i.e. **Gurcharan Singh @ Charan Singh & Ors. Vs. Gurdev Singh & Anr. in CRM-M-30358-2012, decided on 02.05.2018, Chaman Lal Goyal Vs. Kaur Singh, 2008(1) RCR (Criminal) 377 and Somesh Das Vs. State of Chhattisgarh, 2004 (2) RCR (Criminal) 801.**

On the other hand, learned State counsel assisted by counsel for the complainant have submitted that the petitioners have committed grave offences and they are not entitled to get pre-arrest bail. In support

of those assertions, they have referred to judgment **Manju Devi Vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh & Ors., 2017 (2) RCR (Criminal) 421.**

After hearing learned counsel for the parties and going through the record, I find that facts and circumstances of the case warrant grant of concession of pre-arrest bail to the petitioners. It is only during the trial, it can be seen as to whether the essential ingredients of offences especially under Section 3 of the Act, for which the accused are booked are established or not; whether the accused had intention to humiliate the complainant by allegedly uttering casteist remarks, it can only be gathered from the statements of PWs tested by cross examination during the trial. No recovery is to be effected from the petitioners. Therefore, their custodial interrogation is not found to be necessary in view of the facts of the present case. Therefore, the present petitions are allowed. The interim bail granted to the petitioners in CRM-M-55813-2018 vide order dated 18.12.2018 and in CRM-M-464-2019, by way of order dated 11.01.2019 are made absolute subject to the following conditions as envisaged under Section 438 (2) Cr.P.C.

- 1.That the petitioners shall make themselves available for interrogation by a police officer as and when required;
- 2.That they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and;
- 3.That they shall not leave India without prior permission of the Court.

22.01.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No