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

**CRM-M No.3183 of 2021(O&M)
Date of Decision: 28.01.2021**

Sanjay

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ajay Vijarania, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0216 dated 14.11.2020 registered under Sections 323, 506 IPC (later on during investigation Section 325 IPC and Section 3(2) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act added) at Police Station Jhojhu Kalan, District Charkhi Dadri.

Initially, the FIR was registered for the offences under Sections 323, 506 IPC. During investigation, offences under Sections 325 IPC and Section 3(2) of the SC and ST Act were

added. The FIR was registered at the instance of Indrawati with the allegations that on 12.11.2020 at about 8:30 PM, the complainant was standing in front of her house. Petitioner was giving filthy abuses to Rajesh who is also resident of the village and was also giving beatings to him with danda and the complainant tried to get Rajesh freed, then the accused petitioner gave a danda blow on the left hand of the complainant and pushed her. As a result of that, the complainant fell down in the street. On raising alarm, the husband of the complainant came to the spot, but the accused also threatened him of dire consequences. Rajesh also received injuries in the occurrence.

The offence under SC and ST Act has been added on the ground that Rajesh belongs to a schedule caste. The FIR is silent with regard to the knowledge of the petitioner whether the factum of Rajesh being a schedule caste was known to the petitioner or not. Rajesh himself has not come forward to lodge the FIR. The offence under Section 325 IPC is bailable. Only non-bailable offence is under Section 3 of the SC and ST Act.

According to the learned counsel for the petitioner, ingredients of offence under Section 3 of the SC and ST Act are not attracted as the complaint/FIR is silent with regard to the knowledge of the petitioner that Rajesh was belonging to a schedule caste. Petitioner is in custody since 25.11.2020.

Challan has already been presented.

Learned State counsel, however, opposed the bail on the ground that the petitioner inflicted a danda blow on the hand of the complainant and injury falls under Section 325 IPC.

Taking into consideration the aforesaid facts, particularly in view of the fact that challan has been presented, offence under Section 325 IPC is bailable and ingredients of offence under Section 3 of the SC and ST Act would be debatable, at this stage, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 28, 2021
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No