

CRM-M-8204-2020 (O&M)

Through video conference

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

**CRM-M-8204-2020 (O&M).
Decided on: August 12, 2021.**

Neelam Kaur and another

.. Petitioners

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Ms.Sumati Jund, Advocate,
for the petitioners.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.0009 dated 24.1.2020, under Section 3 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Anandpur Sahib, District Rupnagar.

Learned counsel for the petitioners has submitted that it is a case where Section 3 of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989, would not be attracted on the face of it in view of the fact that even as per the FIR the allegations were not made in public view and there is no material on the record to show that either of such allegations were made or if at all they were made, the same were made in public view or not and therefore, the present FIR is totally false and frivolous and is an abuse of process of law. She has further submitted that in view of the law laid down by the Hon'ble Supreme Court in **Prathvi Raj Chauhan Vs. Union of India and others in Writ Petition (C) No.1005 of 2018** although there is a specific bar under the provisions of Section 18 and 18-A of the Act, for entertaining the petition under Section 438 Cr.P.C. but departure can always be made in view of the facts and circumstances of the case. She has submitted that it is a case where departure can be made in view of the fact that it is a case where, prima facie, no offence was made out because there is nothing on the record to show that it was in public view.

This Court on 2.3.2020, had granted interim protection to the petitioners subject to their joining investigation and cooperating with the investigating process.

Today, Mr.Randhir Singh Thind, learned DAG, Punjab, on instructions from ASI Harbans Singh, states that in pursuance of order dated 2.3.2020, the petitioners have joined investigation and have cooperated with the investigation process and are not required for custodial investigation. He has further submitted that when the matter was investigated, nothing was found against the petitioners and the petitioners have since been exonerated by the police and cancellation report has been

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prepared which has been approved by the Senior Superintendent of Police, and now the same will be filed in the competent Court in accordance with law.

After hearing the learned counsel for the parties, I am satisfied that it is a case where prima facie no offence is made out under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as there is nothing on record to show at this stage that alleged remarks were made in public view and rather the police itself has recommended cancellation of FIR against the petitioner. Therefore, the bar contained under Section 18 and 18-A of the Act would not be attracted.

Keeping in view the facts and circumstances of the present case, the present petition is allowed and interim order dated 2.3.2020, vide which the petitioners were granted interim protection, is hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

August 12, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No