

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

CRM-M No. 19755 of 2021
Date of Decision: 13.08.2021

Uday Singh and another

-Petitioners

Versus

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. J.P. Dhull, Advocate,
for the petitioners.
Mr. Anant Kataria, D.A.G., Haryana.
Mr. Jagdish Manchanda, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (Oral)

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

Petitioners seek grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.5 dated 05.01.2021 registered under Sections 323, 504, 506 IPC and Section 3 of Scheduled Caste and Scheduled Tribes Act at Police Station Thanesar City, District Kurukshetra.

Notice of motion was issued on 19.05.2021, after recording the following facts:-

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

Learned counsel for the petitioners

contends that even as per allegations in the FIR, no offence under SC/ST Act is made out as the alleged utterances were not made in public view.

Learned counsel further contends that the complainant is in the habit of filing false cases by citing one Devi Lal as witness. Earlier also, FIR No.419 was lodged on 13.09.2019 under Sections 427, 506 IPC and under Section 3 of SC/ST Act in Police Station KUK against petitioner No.2 and his family members. In the said FIR, allegations were found to be false and a cancellation report was submitted by the police. FIR No.436 dated 26.10.2017 under Sections 506/34 IPC and under Section 3 of SC/ST Act against Pardeep and Sandeep was quashed by the High Court in CRR Nos.1354 & 1574 of 2019. In the present FIR, allegations are that the complainant came out of the office of SDM after filing objections on 04.01.2021. When he came in the parking area, accused started abusing him in the name of his caste. Petitioner No.2 came out from behind and held the complainant by his neck and petitioner No.1 started slapping and punching him. Further allegations are that uncle of the complainant i.e. Ishwar Singh came out to save him. Thereafter, both the petitioners started abusing the complainant in the name of his caste. The complainant thereafter shouted for help and the persons namely Devi Lal, Krishan, Dharampal

and Suresh came to the spot to save the complainant. By referring to the aforesaid factual position, learned counsel submits that the alleged utterances in the parking area were not in public view as none was there at the time of alleged utterances and none saw and heard those utterances. The cited witness only came when the complainant shouted for help and that was at a later stage.

*Learned counsel refers to **Union of India vs State of Maharashtra and others, 2019 SCC Online SC 1279** and submits that the aforesaid judgment has been pronounced after amendment in the Act and the conclusion at Sr. No.ii of the judgment in **Dr. Subhash Kashinath Mahajan vs State of Maharashtra and another (2018) 6 SCC 454** has been reiterated.*

*Learned counsel further cites **Prathvi Raj Chauhan vs Union of India, 2020 SCC Online SC 159.***

Notice of motion for 13.08.2021.

At this stage, Mr. Jagdish Manchanda, Advocate accepts notice on behalf of the complainant.

In the meanwhile, petitioners are directed to appear before the SHO/Investigating Officer to join investigation on 27.05.2021 at 11.00 A.M. and in the event of their arrest, they shall be enlarged on interim bail, subject to their furnishing requisite bail bonds/surety bonds to

the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Nothing expressed hereinabove shall be construed to be an opinion on the merits of the case. The case shall be decided on merits on the adjourned date.”

Learned counsel for the complainant has opposed the grant of anticipatory bail.

Learned State counsel on instructions from ASI Naresh Kumar submits that the petitioners have joined the investigation and are no more required in further investigation of the case.

At this stage, without meaning anything on the merits of the case, I deem it appropriate to confirm the order dated 19.05.2021.

In view of above, order dated 19.05.2021 is hereby made absolute.

However, the petitioners shall keep on joining the investigation as and when required to do so by the Investigating Officer and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

August 13, 2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE