

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CRM-M-20950-2021

Date of decision: -16.09.2021

Dalvinder alias Binder

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sumeet Puri, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana
for respondent No.1.

None for the respondent No.2.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 read with Section 438 of Cr.P.C. seeking grant of anticipatory bail in case FIR No.242 dated 11.05.2021 under Sections 148, 149, 323 and 506 of the Indian Penal Code, 1860 and Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station City Kaithal, District Kaithal.

While granting interim protection to the petitioner, this Court passed the following order on 26.05.2021:-

“Inter alia submits that the FIR wrongly records the caste of the petitioner as Brahman and thus, it is doubtful whether, any offence under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been committed. Even if, it be taken that the petitioner belongs to a higher caste, offence under the said Act is not made out as no persons were present at the time of the incident, which took place at about 9.00 p.m. on 9.5.2021. There is also a delay of two days in registration of the FIR. Apart from the offence under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, all other offences are bailable.

Notice of motion.

Mr. Sanjay Mittal, Addl. AG, Haryana, accepts notice on behalf of respondent No.1-State and waives service.

Respondent No.2 be served in the ordinary manner.

Adjourned to 16.9.2021.

In the meantime, the petitioner is directed to join investigation with the Investigating Officer on 7.6.2021 at 10.00 a.m. and cooperate therewith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/SHO concerned subject to his compliance of the conditions enshrined under Section 438(2) Cr.P.C.”

As per office report, respondent No.2 has been served, however, there is no representation on his behalf.

Reply by way of an affidavit of Deputy Superintendent of Police, Kaithal has been filed on behalf of the respondent No.1-State, which is taken on record.

Learned State counsel, upon instructions, from SI Jaypal submits that the petitioner has joined the investigation and he is no longer required for custodial interrogation. He has further instructions to state that the petitioner was named as an accused in FIR No.438 dated 25.07.2009 registered under Sections 332, 353 and 186, IPC, at Police Station City Kaithal, but he was acquitted.

In view of the above facts, but without commenting on the merits of the case, the present petition is allowed. Order dated 26.05.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

(SUVIR SEHGAL)
JUDGE

16.09.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No