

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(205)

CRM-M-22794-2021

Date of decision:- 17.09.2021

Rinku @ Kuldeep

... Petitioner

Versus

The State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sushil Bhardwaj, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (Oral)

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

While granting interim protection to the petitioner, this Court passed the following order on 10.06.2021:-

“The matter has been taken up through video-conferencing due to COVID-19 pandemic.

By this petition, the petitioner is seeking anticipatory bail in case bearing FIR No. 62 dated 04.03.2021 under Sections 323/341/506 read with Section 34 IPC and Section 3 (2) (va) of the Scheduled Castes or Scheduled Tribes (added later on), registered at Police Station Kunjpura, District Karnal.

At the first instance, the case under Sections 323/341/506 read with Section 34 IPC was registered against the petitioner. The petitioner was admitted on bail in terms of order dated 12.03.2021. Subsequently, after a period of 22 days, the offence under Section 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') was added on the basis of the supplementary statement of the complainant.

It has been contended by learned counsel for the petitioner that a compromise has been effected between the parties. Moreover, the allegations with regard to the offence under Section 3 of the Act have been introduced as an after thought to aggravate the gravity of allegations against the petitioner. The essential ingredients of the offence under Section 3 of the Act are not made out in the instant case and there is no allegation that petitioner was aware of the caste of complainant.

Notice of motion.

At this stage, Ms. Aditi Girdhar, AAG, Haryana, accepts notice on behalf of the respondent-State and has resisted the bail application on the score that the bar of Section 18 of the Act comes into play. However, time has been sought to verify with regard to the compromise.

In the instant case, no allegations with regard to the commission of offence under Section 3 of the Act have been put forth in the FIR and such allegations have been projected after a delay of 22 days. It has not been specifically stated in the supplementary statement that the petitioner was aware

of the caste of the complainant. In such circumstances, it become debatable as to whether the offence under Section 3 of the Act is made out or not.

Adjourned to 17.09.2021.

In the meanwhile, the petitioner is directed to join investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.”

Though the State counsel has not received any instructions from DSP Mukesh Kumar regarding the compromise, yet upon instructions, he submits that petitioner has joined the investigation, he is no longer required for custodial interrogation and is not involved in any other criminal case.

In view of the above facts, but without commenting on the merits of the case, the present petition is allowed. Order dated 10.06.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

(SUVIR SEHGAL)
JUDGE

17.09.2021
Kamal

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