

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

208

**CRM-M-23353-2021
Decided on : 02.09.2021**

Bhagwanti and others

. . . Petitioners

Versus

State of Haryana

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL
(Through Video Conferencing)**

PRESENT: Mr. S. S. Dinarpur, Advocate
for the petitioners.

Mr. Parveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No. 288 dated 18.05.2021 under Sections 323 IPC, 1860 and Section 3 of SC/ST Act registered at Police Station Krishna Gate Thanesar, District Kurukshetra.

On 18.06.2021, when the matter came up for hearing, the Coordinate Bench of this Court was pleased to pass the following order:

“Inter alia contends that initially five persons were implicated in this case, but during investigation, police have found two of them as innocent and only three female members are apprehending their arrest despite the fact that there are no specific allegations against them.

Learned State Counsel is not in a position to dispute the above factual position.

In view of the above, posted for further consideration on 02.09.2021.

In the meanwhile, petitioners will join the investigation before the Investigating Officer. In the event of their arrest, the Arresting Officer would admit them to interim bail in the present case till the next date of hearing on their furnishing adequate bail and surety bonds to his satisfaction. The petitioners are also directed to abide by all the conditions as envisaged under Section 438(2) Cr.P.C. ”

Learned counsel for the petitioners has submitted that in the present case, even on a perusal of the FIR, the ingredients of Section 3 of SC/ST Act are not made out inasmuch as, the said incident is stated to have taken place in the house of the complainant and thus, the same cannot be stated to be at a public place. It is further argued that even as per the FIR, the said incident has not taken place in the presence of any person from the public and thus was not within “Public View”. In support of the said argument, learned counsel for the petitioners has relied upon a judgment of the Delhi High Court in a Writ Petition (Criminal) No.3083/2016 titled as “**Ms. Gayatri @ Apurna Singh Vs. State and Another**” in which case while interpreting the meaning of word “Public View”, the Delhi High Court held as under:-

“8. Section 3(1)(x) of the SC/ST Act at the relevant time, i.e. in July 2015 read as follows:

"3.(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view; ...

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine." (emphasis supplied)"

42. In Daya Bhatnagar (supra), the majority view taken by the Court was that to attract the offence under Section 3(1)(x) of the SC/ST Act the place where the offending action takes place should be within public view that does not mean that the place should be a public place. It could well be a private place, provided the utterance was made within public view. "Public view" is understood to mean a place where public persons are present -howsoever small in number they may be. Public persons are independent and impartial persons who are not interested in any of the parties. The same has been explained to mean persons not having any kind of close relationship or association with the complainant. Such persons are as good as strangers who do not have any liking for

the complainant through any close relationship or any business commercial or other vested interest and who are not participating members with him in any way.”

It is further submitted that even no specific words stated by each of the petitioners have been mentioned. The petitioners are ladies and are not involved in any other case. All the petitioners have joined the investigation in pursuance of the order dated 18.06.2021.

Learned State counsel has opposed the bail application but however, submitted that the petitioners have joined the investigation and are not required any further for the same.

Keeping in view the above said facts and circumstances, more so, the fact that the petitioners have joined the investigation and also since the ingredients of Section 3 of SC/ST Act are not made out, as neither the alleged incident took place in the presence of public nor it was in a public place and moreover, no specific words have been attributed to each of the petitioners and thus, the bar under Section 18 would not be applicable, and therefore, the interim order dated 18.06.2021 is ordered to be made absolute.

Accordingly, the present petition is allowed and it is ordered that the petitioner in the event of arrest shall be released on bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the

conditions as provided under Section 438 (2) Cr.P.C.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case.

(VIKAS BAHL)
JUDGE

02.09.2021
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No