

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

208

CRM-M-23794 of 2021  
Date of Decision:29.06.2021

**Kirpal**

..... Petitioner

**Versus**

**State of Haryana**

..... Respondent

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Vikas Bishnoi, Advocate,  
for the petitioner.

Mr. Zorawar Singh Chauhan, AAG, Haryana

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**AMOL RATTAN SINGH, J. (ORAL)**

Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.88, dated 24.05.2021, having been registered at Police Station Bhattu Kalan, District Fatehabad, alleging therein the commission of an offence punishable under Section 3 of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989.

On 22.06.2021 the following order had been passed by this court:-

“Case has been heard through video conferencing on account of Covid-19 Pandemic.

Notice of motion.

Mr. Naveen Singh Panwar, DAG, Haryana accepts notice on behalf of the respondent. He prays for short adjournment to seek

necessary instructions and to file reply specifically with regard to issuance of 5 days prior notice in compliance of the observation made by the Court of Additional Sessions Judge, who dismissed the bail application of the petitioner vide order dated 10.06.2021.

Accordingly, the case is adjourned to **29.06.2021.**”

Learned counsel for the State submits that since the petitioners' arrest was not being sought at all by the police at this stage, no notice was issued to him in terms of the directions given by the learned Addl. Sessions Judge, Fatehabad, vide his order dated 10.06.2021 (dismissing a similar petition filed before that court).

Learned counsel for the petitioner submits that in any case the police so far has found no incriminating evidence against the petitioner and further, even as per clauses (r) and (s) of Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, insults or abuses to a person belonging to a scheduled caste by his caste etc., has to be in public view or in a public place, whereas even as per the allegation made in the FIR, the petitioner is alleged to have abused the complainant by caste over the phone, and therefore not in public view or in a public place (though of course the petitioner denies having done that also).

Keeping in view the above, this petition is disposed of with a direction that if at all the petitioner is to be summoned at any stage by the police in the context of the FIR in question, he would be given 5 days notice as has been directed by the learned Addl. Sessions Judge, Fatehabad, vide the aforesaid order; and if thereafter, upon him going to join investigation, if he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer, subject to him continuing to join

investigation as and when summoned.

He shall, further, abide by all the conditions stipulated in Section 438 (2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

It is also to be noticed that learned counsel for the petitioner has submitted that the petitioner is 70% disabled and cannot walk without assistance.

Naturally, the investigating agency would take that into mind if at all the petitioner is to be summoned.

June 29, 2021  
dinesh

(AMOL RATTAN SINGH)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | No  |