

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-29108 of 2021
Date of decision:1.9.2021

Krishan

... Petitioner

versus

State of Haryana

... Respondent

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

Present: Mr.A.K.Singh, Advocate,
for the petitioner
Mr.Neeraj Poswal, AAG, Haryana
...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

On 27.7.2021, the following order had been recorded:-

“Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.404, dated 26.06.2021, having been registered at Police Station Barwala, District Hisar, alleging therein the commission of offences punishable under Sections 294 and 506 of the IPC and Sections 3(1) (r) and 3(1) (s) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner at the outset first points to clauses (r) and (s) of sub-section (1) of Section 3 of

the Act of 1989, to submit that the allegation against the petitioner is that he abused the complainant (his sister-in-law) by her caste (he not belonging to that case), over the telephone, with the allegation of such abuse at her house being against one Virender Fauji (Nambardar).

He submits that even if the complainants' allegations are to be accepted at face value (though wholly denied), obviously therefore, even if there was any such abuse by caste, it was not in public view and consequently no offence under the provisions of the Act of 1989 would be made out.

As regards the offences punishable under Sections 294 and 506 of the IPC, he submits that those are also completely false allegations made with no independent witness of such any occurrence, and it was only because of differences between the petitioner and the complainant that such allegations have been made.

Without making any comment on the correctness of the aforesaid contention, notice of motion is issued, with Mr. Sidakmeet Singh Sandhu, learned AAG, Punjab, accepting notice on behalf of the respondent State, at the asking of the court, and with him submitting on instructions from Sh. Rohtash Singh, DSP, Barwala, that after inquiring into the matter, the aforesaid Virender Fauji has been found to be innocent.

That being so, looking at the contentions raised by

learned counsel for the petitioner; and to repeat, without making any comment on the merits of the case, the petitioner is directed to join investigation within one week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by 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 Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 01.09.2021.”

In fact it has been erroneously recorded that notice had been accepted by the learned AAG, Punjab, whereas actually it is a case pertaining to the State of Haryana, with Mr.Poswal, learned AAG, Haryana, having been 'marked present' on the top of the order sheet.

Consequently, the said order has been appropriately corrected, with in any case Mr.Poswal not denying that he had accepted notice at the asking of the court.

Therefore, the incorrect order be deleted from the website of this court and the corrected one uploaded thereafter.

Learned State counsel, on instructions from Shri Rohtash Singh, DSP, Barwala, submits that the petitioner has joined investigation pursuant to the order dated 27.7.2021 and presently his custodial

interrogation is not required.

In view of above, the petition has actually been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 7 days notice before arrest, duly shown to be served upon them.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

1.9.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No