

CRM-M-34654-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(202)

CRM-M-34654-2021.
Date of Decision:-06.10.2021.

Ramesh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Govind Mor, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the second petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.324 dated 11.07.2021 under Sections 323, 34, 427, 452 and 506 of IPC and Section 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') was added in the case/FIR on the basis of supplementary statement of the complainant, registered at Police Station Sector, Hisar City, District Hisar, Haryana.

Mr. Vijay Pal, and Mr. Ishaan Bhardwaj, Advocates have appeared and filed a *vakalatnama* on behalf of the complainant. Same is taken on record.

On 26.08.2021, this Court had passed the following order:-

“Prayer in the present petition is for grant of anticipatory bail to petitioner in case FIR No.324 dated 11.07.2021 registered under Sections 323, 34, 427, 452, 506 of the Indian Penal Code, 1860 and Section 3(1)(s) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as “the SC/ST Act”) (Section 3(1)(s) of the SC/ST Act has been added later on) at Police Station Hisar City, District Hisar, Haryana.

Learned counsel for the petitioner inter alia contends that in the FIR which was registered on 11.07.2021, there was no allegation so as to constitute the offence under the SC/ST Act. It was only on 12.07.2021 when the supplementary statement was recorded on the basis of which offence under the SC/ST Act was added. A perusal of the said statement would show that no reason has been given as to why the entire allegations were not made on 11.07.2021. It is further submitted that even as per the said FIR/supplementary statement, no offence under the SC/ST Act is made out inasmuch as neither the said alleged abuse was in public view nor any other person other than the three accused were stated to be present and even as per the allegations, there were no specific words used so as to attract the offence under the SC/ST Act. It is submitted that it has been repeatedly held by this Court as well as various High Courts that in case the ingredients of the offence are not made out then the bar under Section 18 of the SC/ST Act

CRM-M-34654-2021

would not apply.

Learned counsel for the petitioner has relied upon the judgment passed by this Court in case titled Jagir Chand Vs. State of Punjab, reported as 2002(4) RCR (Criminal) 445, for the said proposition. It is further submitted that even as per the prosecution case, the petitioner was not carrying any weapon.

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, accepts notice on behalf of State of Haryana and seeks time to get instructions.

Adjourned to 06.10.2021.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to 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.”

Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has already joined the investigation.

Learned State counsel, on instructions from DSP Ashok Kumar, has submitted that the petitioner has joined the investigation on 06.09.2021 and is not required for further investigation.

Learned counsel for the complainant has submitted that in the

CRM-M-34654-2021

present case, the offence is made out under Section 3 (1) (s) of the SC/ST Act and has, thus, opposed the present bail application.

This Court has heard the learned counsel for the parties.

Keeping in view the above facts and circumstances, moreso, the fact that the petitioner has joined the investigation and is not required for further investigation and also the fact that in the original statement on the basis of which FIR was registered, there was no allegation to constitute the offence under the SC/ST Act and no reason has been given as to why the entire allegations were not made on 11.07.2021 and also the fact that no specific words so as to attract the provisions of SC/ST Act have been stated to have been spoken nor any other person other than the three accused were stated to be present at the time when the alleged incident took place and even the neighbors have been stated to have come subsequently, this Court is of the view that *prima facie*, the offence is not made out and, hence, the bar under Section 18 of the SC/ST Act does not apply.

Accordingly, the present petition is allowed and the interim order dated 26.08.2021 is made absolute.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

October 06, 2021.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No