

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103)

CRM-M-39537 of 2021

Date of Decision: 22.09.2021

Abhishek and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.Vijay Sangwan, Advocate, for the petitioners.

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioners seek the concession of anticipatory bail, upon FIR no.243, dated 21.06.2021, having been registered at Police Station Rohtak Sadar, District Rohtak, alleging therein the commission of offences punishable under Sections 148, 323, 342, 365, 506 and 149 of the IPC and Sections 3 (2) (v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, with Section 325 of the IPC added subsequently in the FIR.

Learned counsel for the petitioner submits that, firstly, the petitioners have not been named in the FIR; and further, there is another FIR registered at the instance of the co-accused of the petitioners, i.e. Ravi, to the effect that her neighbor, Vikash, used to harass her and tried to outrage her modesty and even threatened her that if she disclosed that to anyone, he would kill her brother, due to which she never lodged a report earlier.

It has further been alleged in that FIR, bearing no.245 dated

22.06.2021 (copy Annexure P-2), that on 17.06.2021, Vikash again threatened her when her family members were not present at home, but on their return, she had disclosed that occurrence to them but since her father was on duty on that date, the complaint was not registered on that date and only on 21.06.2021 when he returned from duty.

The allegation in the FIR in which the petitioners have been arraigned as accused, is that on 21.06.2021, i.e. one day prior to the FIR registered against the aforesaid Vikash by the sister of the co-accused of the petitioners, Ravi and his companions had manhandled and forcibly taken the complainant (Vikash) to a room and had thereafter injured him.

In my opinion, with an offence also punishable under Section 365 of the IPC existent in the FIR (other than an offence punishable under the provisions of the Act of 1989), the petitioners would not be entitled to the concession of anticipatory bail, even though learned counsel for the petitioners submits that petitioner no.3 is a minor, with no documentary proof having been annexed with this petition, whatsoever, in that regard.

It is also to be observed that even if no offence punishable under the provisions of the Act of 1989 is eventually found to be *prima facie* also made out, however, even as regards the commission of an offence punishable under Section 365 of the IPC, as is alleged to have been committed as per the FIR, in the opinion of this court (again *prima facie* at this stage), the FIR registered at the instance of the sister of the co-accused, Ravi, against the petitioners, would seem to be a backlash to the FIR

registered one day prior thereto.

Consequently, this petition is dismissed, with obviously no comment made on the merits of the case, but with it not being a petition to be entertained under the provisions of Section 438 of the Cr.P.C.

If petitioner no.3 is actually a minor, he would obviously be at liberty to approach the Juvenile Justice Board to seek his remedy under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.

It is made absolutely clear that all observations made in this order are only upon consideration of the arguments raised by the learned counsel for the petitioners, with which I find myself unable to agree in the circumstances. Therefore, naturally, all such observations made in this order are only in the context of this petition seeking the concession of pre-arrest bail, and as regards the investigation in the matter and the trial (if it reaches that stage), equally naturally, that would proceed by on the basis of the evidence gathered/led, (as regards both the FIRs, referred to herein above, i.e. FIR no.243 dated 21.06.2021 and FIR no.245 dated 22.06.2021, both registered at Police Station Rohtak Sadar, District Rohtak).

22.09.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No