

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

214

Date of decision:19.01.2021

CRM-M No. 37784 of 2020

JOHNY@ SANDEEP POSWAL

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CRM-M No. 39698 of 2020

JOGINER SINGH

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Parminder Singh, Advocate for
Mr.Vikram Bali, Advocate
for the petitioner in CRM-M-37784 of 2020.

Mr.Sahil Gupta, Advocate
for the petitioner in CRM-M-39698 of 2020.

Mr.Anant Kataria, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The cases have been taken up for hearing through
video-conferencing.

Vide this order CRM-M Nos.37784 and 39698 of
2020 are being disposed of as the same have arisen out of the
same FIR. The facts are being taken from CRM-M No.

These petitions have been filed under Section 439 Cr.P.C. for grant of regular bail in case bearing FIR No. 396 dated 02.09.2020 registered under Sections 323, 342, 509 IPC and Sections 3 (1)(iii), 3(2) (V) and Sections 3 (1) (E), 3 (2)(VA) (added later on) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') at Police Station Sector 32-33, Karnal District Karnal.

The FIR was got registered by complainant Veerbhan with the allegations that he was summoned by petitioner Sandeep in his office for settling the account. Petitioner along with his brother and two unknown persons gave beatings to the complainant and used abusive words against him and also spitted on his face. Petitioner Joginder sprinkled urine over the complainant. Complainant tried to consume poison. When wife of the complainant went to lodge complaint, then the accused also misbehaved with her.

Learned counsel for the petitioner(s) with reference to cheque No.852233 dated 01.09.2020, submitted that the complainant was having money dealing with petitioner Sandeep for which a cheque of Rs.1,20,000/- was given by the complainant to the petitioner and the same was dishonoured for

insufficiency of funds. Complainant has not pleaded in the complaint that the petitioners were in the knowledge of the fact that the complainant belongs to SC/ST category. Even in the complaint/ FIR, no specific words/ utterances have been mentioned. No Medico Legal Report has been got prepared in respect of alleged beatings.

Learned counsel further submitted that the complainant is a mischievous person and used to keep a lady as his wife without obtaining divorce from his earlier wife. The alleged occurrence has been captured in CCTV footage, but the police has not taken possession of the same. The alleged occurrence has not occurred in public view, rather the same had allegedly taken place in the office.

By referring to the aforesaid, learned counsel for the petitioner(s) submitted that the ingredients of offence under Section 3 of the Act are not attracted. In **Union of India vs. State of Maharashtra and others** 2019 SCC Online SC 1279, which has been pronounced after amendment in the Act, the conclusion at Sr.No.ii of the judgment titled **Dr.Subhash Kashinath Mahajan vs. State of Maharashtra and another** (2018) 6 SCC 454 has been reiterated and the same view has been endorsed in the subsequent judgment in **Prathvi Raj**

Chauhan vs. Union of India 2020 SCC Online SC 159.

Per contra, learned State counsel, however, opposed the bail on the ground that specific allegations have been levelled against the petitioner(s) and the grounds of arguments are subject to the evidence to be led by the parties during trial.

Keeping in view the aforesaid facts, the prima facie consideration of the matter would make the petitioner(s) entitled for the concession of regular bail. Petitioner Johny @ Sandeep Poswal is in custody since 20.10.2020 and petitioner Joginder Singh is in custody since 26.10.2020. Challan has been presented, but charges have not been framed.

In view of above, both the petitions are allowed. Petitioner(s) are ordered to be released on regular bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 19, 2021
anita

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No