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

**CRM-M-2366-2022
Date of Decision: 28.04.2022**

Hakumat Rai

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jasdeep Singh Gill, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in cross-case i.e. Rapat/DDR No.31, dated 20.04.2021, under Sections 323, 324 & 34 of the IPC (later on offence under Section 324 of the IPC deleted) and further enhanced vide DDR No.40, dated 14.06.2021 under Sections 323/34 of the IPC and Section 3(i)(r) of the Scheduled Caste and Scheduled Tribes Act, 1989 (for short 'SC & ST Act') in FIR No.15 dated 25.02.2021, under Sections 307, 324, 323, 506, 148 & 149 of the IPC (later on offence under Sections 307, 148 and 149 of the IPC deleted and Section 34 of the IPC added), registered at Police Ghanie Ke Banger, District Gurdaspur.

Learned counsel for the petitioner has submitted that in pursuance of the interim bail granted to the petitioner vide order dated

21.01.2022, the petitioner has joined the investigation and has fully cooperated with the investigation process and has also prayed that the interim bail may be made absolute.

Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab has submitted on instructions from A.S.I. Amarjit Singh that in pursuance of order dated 21.01.2022, the petitioner has joined the investigation and has fully cooperated with the investigation process and he is not required for custodial interrogation.

The allegations in the present case pertain to Section 3(i)(r) of the SC&ST Act, it was the case of the petitioner that he was falsely implicated in the present case since the dispute was between the petitioner, who is a Sarpanch and the other persons, namely, Kans Kaur and Gurpreet Singh and some other persons of the village and on 21.02.2021, the complaints were made to the Police by both the parties and both the parties had assembled in the village and dispute was with regard to the opening of the gate from the house of one Ajaib Singh on the road side and a video was also made there. The aforesaid persons, namely, Kans Kaur and Gurpreet Singh along with some other persons threatened the petitioner and caused injuries to him and on the basis of which an FIR was also lodged against them and thereafter, the aforesaid Kans Kaur got lodged DDR against the petitioner vide Annexure P-2 and in the DDR, she did not mention anything with regard to the allegations pertaining to the SC&ST Act. Thereafter, the daughter of the aforesaid Kans Kaur also lodged a DDR against the petitioner vide Annexure P-3, which was also pertaining to the same incident in which she had alleged that she was beaten up by the petitioner

and the petitioner had hit her in the abdomen and she was pregnant but in the aforesaid DDR also there is no mention with regard to the allegations pertaining to the SC&ST Act. Learned counsel for the petitioner further submitted that thereafter when the inquiry was conducted it was found that the aforesaid daughter of the Kans Kaur was not pregnant, and therefore, the allegations were found to be false and thereafter, even a Special Investigation Team was also constituted. He also submitted that it was only due to the enmity in the village that the provisions of Section 3(i)(r) of the SC & ST Act was added by way of a supplementary statement but on the face of it, there was no imputation with regard to the same at the initial level on which a video was also made. He further submitted that in view of the aforesaid facts and circumstances, the bar contained under Sections 18 & 18-A of the SC & ST Act will not be applicable in the present case in view of the law laid down by the Hon'ble Supreme Court in *Writ Petition (C) No.1015 of 2018* titled as "*Prathvi Raj Chauhan Vs. Union of India*" decided on 10.02.2020.

I have heard the learned counsel for the parties.

In pursuance of the order passed by this Court on 21.01.2022, the petitioner has joined the investigation and as per the learned State counsel, the petitioner is not required for custodial interrogation. The bar contained under Sections 18 & 18-A of the SC & ST Act will not be applicable at this stage in the present case in view of the facts and circumstances therein which suggest that the imputation pertains to the SC & ST Act were levelled on the basis of a supplementary statement and otherwise at the time of initial fight regarding which the imputation were

levelled nothing was mentioned in the DDR lodged by the Kans Kaur or her daughter. Even otherwise also the learned State counsel has taken up a specific stand that the petitioner is not required for custodial interrogation.

Consequently, this Court is of the considered opinion that the present petition deserves to be allowed, therefore, the order dated 21.01.2022 is hereby made absolute.

28.04.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |