

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-4665-2022

Date of decision : 17.03.2022

Jabarjit Singh @ Bheela

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.B.S.Goraya, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.Gazi Mohd. Umair, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for granting anticipatory bail to the petitioner in complaint case bearing COMA no.14 dated 13.06.2017 under Section 3 (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "SCST Act") and under Sections 427, 452, 506, 148, 149 IPC titled as "*Ranjit Kaur vs. Shivraj Singh and others*" of Police Station Tarsikka, District Amritsar.

On 04.02.2022, this Court was pleased to pass the following order:-

"Learned counsel for the petitioner has made an oral request that complainant-Ranjit Kaur wife of Paramjit Singh, resident of Village Tarsikka, Tehsil Baba Bakala Sahib, District Amritsar, may kindly be

impleaded as party respondent No.2.

On his abovesaid oral request, complainant-Ranjit Kaur wife of Paramjit Singh, resident of Village Tarsikka, Tehsil Baba Bakala Sahib, District Amritsar, is ordered to be impleaded as party respondent No.2.

Registry is directed to do the needful.

*Learned counsel for the petitioner inter alia submits that in the present case, as far as the petitioner is concerned, no offence under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the SC/ST Act") or under any other Act, is made out inasmuch as, even as per the complaint, there are no allegations that the petitioner had uttered any casteist words or had demeaned the complainant. It is further submitted that in the impugned order, it has not even been specified as to under which sub-Section of Section 3 of the SC/ST Act, the petitioner has been summoned and thus, it shows that summoning order has been passed without any application of mind. It is argued that the present case is a complaint case and the petitioner is ready to appear before the trial Court within a period of 15 days from today. He has relied upon judgment of the Hon'ble Supreme Court in **Prathvi Raj Chauhan Vs. Union of India and others**, reported as **2020 AIR (Supreme Court) 1036**, to contend that in such a situation, bar under Section 18 of the SC/ST Act, would not apply and the petitioner would be entitled to anticipatory bail.*

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and seeks time to get instructions.

Adjourned to 17.03.2022.

In the meantime, the arrest of the petitioner is stayed subject to the petitioner appearing before the trial

Court within a period of 15 days from today.

In case, the petitioner appears before the trial Court within a period of 15 days from today, the trial Court would release the petitioner on interim bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has appeared before the Judicial Magistrate Ist Class, Baba Bakala Sahib on 10.02.2022 and has been granted interim bail on furnishing his bail bonds in the sum of Rs.50,000/- with one surety each of like amount.

Learned counsel for the complainant has opposed the present petition and has submitted that there is bar under Section 18 of the SCST Act.

This Court has heard learned counsel for the parties and has perused the record.

A perusal of order dated 04.02.2022 would show that it was after considering the provisions of Section 18 of the SCST Act, as well as the judgment of the Hon'ble Supreme Court of India in **“Prathvi Raj Chauhan vs. Union of India and others”**, reported as **2020 AIR (Supreme Court) 1036**, that the order dated 04.02.2022 was passed. It is reiterated that prima facie offence under Section 3(x) of the SCST Act is not made out inasmuch as even as per the complaint, there are no allegations levelled against the petitioner that he had uttered any casteist words or had demeaned the complainant. Moreover, perusal of the impugned order would show that there is no specific mention even as to under which sub section of Section 3 of the SCST Act, the petitioner has been summoned. Moreover,

the petitioner has complied with the order dated 04.02.2022 and has appeared before the trial Court and has also furnished bail bonds and surety bonds. The order dated 10.02.2022 passed by the Judicial Magistrate Ist Class, Baba Bakala Sahib is reproduced hereinbelow:-

“Present- Accused/applicant Jabarjit Singh in person.

Applicant/accused Jabarjit Singh filed an application for acceptance of bail/surety bonds as per order dated 04.02.2022 passed by the Hon'ble Punjab & Haryana High Court, Chandigarh. In view of abovesaid order dated 04.02.2022, accused/applicant Jabarjit Singh is ordered to be released on interim bail till 17.03.2022 on furnishing his bail bonds in sum of Rs.50,000/ with one surely each of like amount. Requisite bail/surety bonds furnished and same have accepted and attested. Now further order be awaited for 21.03.2022.

*Date of Order: 10.02.2022 (Karun Kumar)
Judicial Magistrate 1 Class
Baba Bakala Sahib
UID No.PB0636”*

Keeping in view the facts and circumstances of the case moreso, the facts which have been noticed in the order dated 04.02.2022, and and also in view of law laid down by the Hon'ble Supreme Court of India in **Prathvi Raj Chauhan's** case (supra), the present petition is allowed and the interim order dated 04.02.2022 is made absolute.

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 petition.

(VIKAS BAHL)
JUDGE

March 17, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No