

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

202

CRM-M-7626-2022

Date of Decision: 24.03.2022

Gurjinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ferry Sofat, Advocate, for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab,
assisted by SI Baldev Raj.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.0262 dated 18.12.2021 at Police Station Tibba, District Police Commissionerate Ludhiana, Ludhiana, under Section 3(1)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015).
2. At the time of issuance of notice of motion on 23.02.2022, the following order was passed:

“By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 0262, having been registered at Police Station Tibba, District Ludhiana, on 18.12.2021, alleging therein the commission of an offence punishable under the provisions of Section 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner submits that even if the allegations made in the FIR (though denied) are to be accepted at face value, no

offence punishable under the provisions of Section 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, would be made out as the words abused by caste (as alleged), were made in a telephonic conversation and consequently, it was not within the public view.

Notice of motion.

On the asking of the court, Mr. M.S. Nagra, A.A.G., Punjab, accepts notice on behalf of the respondent-State, with Mr. Vishwajit Bedi, Advocate, appearing on behalf of the complainant.

Learned counsel for the complainant submits that as per the investigation conducted, the words were used in the presence of one Jaswinder Singh and Ravinder Kumar and consequently, they would be considered to have been uttered in public view so as to make out the commission of an offence under the said provision.

He points to the FIR to submit that in fact the opinion of the District Attorney (Legal) was also obtained.

He further points to the order passed by the learned Additional Sessions Judge, Ludhiana, dated 13.01.2022 (dismissing a similar petition before that court), wherein that fact has been noticed.

At this stage, since what is contained in the FIR is allegedly abusive words uttered in a telephone conversation, in my opinion, the respondent-State would be required to respond on affidavit as to how it was established that the aforesaid Jaswinder Singh and Ravinder Kumar, heard that conversation, so as to bring it within the ambit of "public view".

Consequently, a gazetted officer will file a detailed affidavit to that effect.

Adjourned to 24.03.2022.

In the meanwhile, at this stage at least prime facie there possibly being no case made out against the petitioner in terms of the aforesaid provision (with of course that observation to be taken only one made at this stage), the bar contained in Section 18 of the Act of 1989 would not apply till a detailed reply filed by the respondent-State in that regard and therefore upon the petitioner joining investigation within one week, in case he is sought to be arrested, he would be released on bail, on his

furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.”

3. Learned State counsel upon instructions has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and is not required for any custodial interrogation.
4. Having regard to the aforestated position, wherein the petitioner is stated to have joined investigation and is not required for any custodial interrogation, the petition is accepted and the interim directions issued by this Court vide order dated 23.02.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

24.03.2022

Vimal

**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**