

CRA-S-941-2022(O&M)
Date of Decision:28.09.2022

SHUBHAM

...Appellant

VS

STATE OF HARYANA AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Himanshu Arora, Advocate
for the appellant.

Ms. Ankita Ahuja, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)CRM-21492-2022

Application is allowed as prayed for.

Whatsapp chat between the appellant and the complainant
(Annexure A-5) is taken on record.CRA-S-941-2022

On 14.07.2022 , this Court had passed the following order:-

“Instant appeal has been filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short “SC/ST Act”) against order dated 09.05.2022 passed by learned Additional Sessions Judge, Bhiwani, whereby anticipatory bail of the appellant was dismissed in case FIR No.226 dated 15.04.2022 registered under Sections 328, 354-A, 376 and 506 of IPC and Section 3 (2) (v) of the SC/ST Act at Police Station City Bhiwani.

Counsel for the appellant urges that the appellant and prosecutrix were known to each other. By referring to whatsapp chat, he argues that the prosecutrix willingly accompanied the appellant to a hotel room on the day of alleged sexual assault and has been in constant contact with him thereafter. An argument has been raised that there is an unexplained delay of two months in lodging the FIR. He submits that there is no accusation attracting offence under SC/ST Act, which has been added later on, on the

*production of SC certificate by the prosecutrix.
List on 28.09.2022.*

Meanwhile, the appellant shall join the investigation and would appear as and when called by the Investigating Officer and in the event of arrest, the appellant shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The appellant shall also abide by the conditions as specified under Section 438 (2) Cr.P.C. "

Upon instructions received from the Investigating Officer, State counsel submits that the appellant has joined the investigation and he is no longer required for custodial interrogation.

In view of the above facts, but without commenting on the merits of the case, the present appeal is allowed. Order dated 14.07.2022 is made absolute, subject to the fulfilment of conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

**(SUVIR SEHGAL)
JUDGE**

September 28, 2022

P.Bhatt

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