

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

**CRM-M No.26253 of 2021 (O&M)
Date of Decision: 16.11.2022**

Ranbir Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. JP Dhull, Advocate,
for the petitioner.

Mr. Kiranpal Singh, AAG, Haryana.

Mr. Ashit Malik, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Present second petition has been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioner in FIR No.0205 dated 26.05.2021, under Section 506 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) & 3(1)(za)(c) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Kurukshetra University, Kurukshetra.

2. It transpires that above FIR was registered on the basis of statement made by one Banwari Lal to the effect that there is a *kacha* rasta in Village Tigri Khlasa, leading towards *Mata Madanan*, which is being concreted with the help of Government funds. The path is adjoining the land of accused persons. On 22.05.2021, when he went to see the unconstructed road (Gohar), there was already a crowd of people, who on seeing him, started hurling abuses i.e. “*Tu Chamar Hai, Daid Haid*” and asked him as to why he had come there while he

was not having any concern with that Gohar. They would not allow them to worship in the temple of *Mata Madnan* because the way was adjoining their land. When complainant replied that the way is common and Mata Madnan is for all, accused persons got angry and again hurled abuses in front of all. He also apprehended threat to his life and property at the hands of accused persons; thus, it was requested that legal action be taken against them.

3. This Court, on 20.07.2021, granted interim bail to petitioner and relevant part of the same is recapitulated as under:-

“Contends that FIR No.205 dated 26.05.2021, under Section 506 of IPC & Section 3(1)(r), 3(1)(s) & 3(1)(za)(c) of SC/ST Act, 1989 (for short 'Act of 1989') was registered against the petitioner as well as his three (3) brothers, at Police Station Kurukshetra, after an unexplained delay of four (4) days as the occurrence is alleged to have taken place on 22.05.2021. Further contends that during investigation, three co-accused have been declared innocent by the police, thus, prima-facie, prosecution story is falsified. Also contends that there is no other criminal case pending against the petitioner except the present one and he is ready to join the investigation as and when called by the police.

On the other hand, learned counsel for the complainant submitted that in view of Section 18-A of the Act of 1989, petition for prearrest bail is not maintainable. Further submitted that petitioner is involved in other criminal cases also, but at present, he is not having the exact details of the same.

Learned State counsel acknowledged that during investigation, three co-accused have been found innocent by the police, but he also seeks time to have further instructions regarding pendency of any other criminal case(s) against the

petitioner.

Posted on 02.08.2021, for further consideration.

*No doubt, in view of Section 18A of Act of 1989, there is an interdict for invoking Section 438 Cr. P.C.; but undisputedly, present FIR was registered against four accused; during investigation, three out of them have already been found to be innocent by the police; thus, prima-facie, the prosecution version becomes wavering. Also noteworthy that allegations against the petitioner are similar to above three co-accused and moreover, in view of the facts and circumstances of the present case, neither learned State counsel; nor counsel for the complainant are able to justify the custodial interrogation of the petitioner. As a result thereof, in the meanwhile, petitioner will join investigation before the Investigating Officer and in the event of his arrest, the Arresting Officer/ Investigating Officer would admit him to interim bail, **till the next date of hearing**, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner is also directed to abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”*

4. Contends that in terms of the above order, petitioner has already joined the investigation and his custodial interrogation is not required.
5. The above factual position is duly acknowledged by learned State Counsel, on instructions from the police official concerned and further stated that custodial interrogation of the petitioner is not required at this stage.
6. In view of above, interim order dated 20.07.2021 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7. It is also made clear that petitioner shall fully co-operate with the

Investigating Officer as and when called for further investigation.

8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

Disposed off accordingly.

16.11.2022
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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>