

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

CRM-M-27647-2022 (O&M)

Date of Decision:- 25.7.2022

Parveen Kumar Mittal and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Karan Sachdeva, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab

Mr. Rau P.S. Girwar, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioners seek grant of anticipatory bail in a case registered against them vide FIR No. 200 dated 18.12.2021 under Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 506/34 IPC at Police Station City 1, District Mansa.
2. The FIR was lodged at the instance of Som Parkash wherein it is alleged that he belongs to Scheduled Castes community and has been working as a Driver since 2017 with Munish Aggarwal, who had a flourishing business. Said Munish Aggarwal treated the complainant as his friend and trusted him and used to depute him for attending to various of his jobs. The complainant stated therein that the petitioners namely Parveen Kumar Mittal and Manish

Kumar Mittal had met Munish Aggarwal about 3 years back in his presence and had represented that in case Munish Aggarwal enters into an agreement with them, they will provide a packhouse in Haryana. Munish Aggarwal was taken in by the representation made by the said persons and transferred an amount of more than ₹1 crore through bank in various accounts of the accused. However, the accused kept on lingering the matter thereafter on the pretext of onset of corona and did not provide the promised packhouse to Munish Aggarwal. After the lockdown was lifted in May, 2020, the complainant, on the asking of Munish Aggarwal met the accused Parveen Kumar Mittal and Manish Kumar Mittal and asked them about the packhouse but they misbehaved with him and stated that the matter was between members of Aggarwal community whereas the complainant was '*Dhanak*' and also addressed him as '*Chura*' while hurling filthy abuses in respect of his caste and also showed disrespect to Dr. Bheem Rao Ambedkar and his principles and further stated that '*Chure*' had lowered the status of Punjab. The complainant, being scared, returned back but did not disclose anything to Munish Aggarwal. The complainant further alleged that on 7.6.2021 when he and Munish Aggarwal had gone to Horticulture Department, Panchkula in Munish Aggarwal's Innova vehicle then they came across the accused on the way alongwith an unknown person. When Munish Aggarwal again asked them about the packhouse, the accused misbehaved with Munish Aggarwal. When the complainant tried to reason out with them, the said accused again uttered objectionable words towards his caste and hurled abuses and also threatened to kill him and also threatened to implicate him in false cases. It is also alleged that a few days

thereafter when the complainant alongwith Munish Aggarwal had gone to Mansa and when they were returning back, they were waylaid by the accused and Manish Kumar Mittal caught hold of complainant while pointing a weapon at him and Parveen Kumar Mittal started manhandling Munish Aggarwal. When the complainant tried to rescue Munish Aggarwal, then Manish Kumar Mittal again hurled abuses as regards his caste and addressed him as '*Chura*'. Praveen Kumar Mittal exhorted Manish Kumar Mittal that the complainant be not spared. The complainant and Munish Aggarwal raised alarm and upon which the accused ran away from the spot while issuing threats to kill them.

3. The learned counsel for the petitioners has submitted that they have falsely been involved in the present case and that the falsity would be evident from the fact that the FIR has been lodged highly belatedly inasmuch as while the amount of ₹ 1 crore is stated to have been paid about 3 years back, the instances of alleged utterances which are alleged to have taken place in different cities had taken place right from year 2020. It has further been submitted that infact it is a matter which had been compromised amongst the parties as would be evident from copy of statement dated 29.7.2021 (Annexure P-6), which is in the nature of a statement made Som Parkash wherein he has categorically stated that the allegations, as levelled in the FIR, came to be levelled under some misunderstanding and that nobody had uttered any objectionable words towards his caste, but the complainant now wants to cash in on account of FIR.
4. On the other hand, the learned State counsel assisted by counsel for the complainant has submitted that having regard to the serious nature of

allegations wherein the accused had repeatedly been making objectionable utterances against the caste of the complainant and there are also specific allegations against the petitioners having defrauded Munish Aggarwal of a huge amount of ₹ 1 crore, no case for grant of bail is made out and that the petition deserves to be dismissed. The learned State counsel has further submitted that the petition under Section 439 Cr.P.C. in any case is not maintainable in view of the bar enshrined in Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. I have considered rival submissions addressed before this Court.
6. As far as maintainability of petition under Section 438 Cr.P.C. for grant of anticipatory bail in a case registered under Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, it is no doubt correct that Sections 18 and 18A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 enshrine a specific bar against grant of anticipatory bail but Hon'ble Supreme Court in Union of India Vs. State of Maharashtra and others - 2019(4) RCR (Criminal) 828 and Prathvi Raj Chauhan Vs. Union of India and others – 2020 (4) SCC 727 has categorically held that where the Court is *prima facie* of the view that offence under Section 3 or 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not made out, then the Court in exercise of its powers under Section 482 Cr.P.C. can order for release of the accused on anticipatory bail.
7. In the instant case, the allegations pertaining to the petitioner having taken an amount of ₹ 1 crore from the complainant on the pretext of providing packhouse are concerned, it appears that despite an enquiry conducted, the

police does not seem to have found sufficient evidence in respect of any offence under Section 420 IPC pertaining to the alleged fraud of ₹ 1 crore. The FIR has been lodged only in respect of the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. As regards the offence under Section 506 IPC is concerned, the same is a bailable offence. Coming to the allegations pertaining to offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, this Court finds that the complainant has referred to four different instances which allegedly had taken place in different cities over a period of about 3 years. Apart from cities of Punjab, an incident in Panchkula (Haryana) is made part of the FIR. It remains unexplained as to why the complainant chose to remain silent all this time, though the first incident is of February, 2020.

8. Having regard to the facts and circumstances and the nature of allegations, this Court is of the opinion that ends of justice would be fairly met in case the petitioner is directed to surrender before the trial Court and the trial Court is directed to dispose of the bail application within a certain time frame. As such, while disposing of the instant petition, the petitioner is directed to surrender before the trial Court within 10 days and to move an application for grant of regular bail. In case, the petitioner so surrenders before the trial Court and moves an application for grant of regular bail in the forenoon of the day, the trial Court shall endeavour to dispose of the same expeditiously, preferably on the day such application is filed, while having due regard to the contentions as may be raised on his behalf.

9. The petition stands disposed of accordingly.

25.7.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No