

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-1136-2022
Date of decision:25.08.2022

Rohit Sharma

... Appellant

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. B.S. Bhalla, Advocate for the appellant.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This appeal has been filed under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 21.06.2022 passed by Vacation Judge, Moga, vide which an application under Section 438 Cr.P.C. filed by the appellant for grant of anticipatory bail was dismissed.

On 04.07.2022, this Court was pleased to pass the following order:-

“Learned counsel for the appellant has submitted that the appellant had first filed a petition under Section 482 Cr.P.C. read with Section 438 Cr.P.C. but an objection was raised by the registry with respect to the maintainability of the same in view of the judgment of the Coordinate Bench dated 01.07.2022 passed in CRM-M-27873-2022 titled as Sukhdeep Singh Vs. State of Punjab in which it has been observed that against the dismissal of an application of anticipatory bail filed under Section 438 Cr.P.C. by the Sessions Court, an appeal would lie under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and thus, the present appeal has been filed. Learned counsel for the appellant has further submitted that the present case is a case of abuse of process of law inasmuch as, the FIR has been

registered after a delay of 1 year and 1 month as the incident is stated to have taken place on 15.06.2021 and the FIR has been registered on 12.05.2022 and the same has been registered on the asking of ASI Harjinder Singh who had earlier involved the present petitioner in a false case under Section 452, 323 and 34 IPC on 17.03.2022 and the appellant was granted interim bail vide order dated 23.03.2022 (Annexure A-1). In the said case, the appellant had gone to join the investigation but the said ASI did not permit the appellant to join the investigation and thereafter, the appellant had filed an application in the Court of Additional Sessions Judge, Moga for issuing specific directions to the appellant to join the investigation and a prayer was also made to take legal action against ASI Harjinder Singh for causing harassment and physical abuse and thereafter, anticipatory bail application was allowed vide order dated 31.03.2022. It is further submitted that the appellant is a press reporter who had to publish some news against the police Station and its official, where ASI Harjinder Singh was posted and thus, the present FIR was registered on 12.05.2022 with respect to an alleged incident taking place on 15.06.2021. It is contended that even a perusal of the FIR would show that no offence under the SC/ST Act is, prima facie, made out inasmuch as, it has not been stated that the appellant had any knowledge that the complainant belonged to any scheduled caste or scheduled tribe nor the incident in question has taken place in a public place and even as per the FIR, it was the complainant who had come to the house of the present petitioner and was interfering in the petitioner's matrimonial dispute. Reliance has been placed upon the latest judgment of Hon'ble Supreme Court in **Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727**, to contend that in such like situation, the bar under Sections 18 and 18-A of the SC/ST Act would not apply. Further reliance has been placed upon judgment of a Coordinate Bench of this Court in **Jai Parkash and others Vs. State of Haryana and another, reported as 2011(3) RCR (Criminal) 217**, to state that in case, it is not specifically averred in the FIR that the petitioner had knowledge that the complainant belonged to a Scheduled Caste, then the offence would not be made out and the bar under Sections 18 and 18-A of the SC/ST Act would not operate. Reliance has also been placed upon the judgment of Coordinate Bench of this Court in **CRM-30576-M-2002 decided on 01.08.2002 titled as "Jagir Chand vs. State of Punjab"** as well as in **CRM-M-3956-2020 decided on 27.02.2020 titled as "Baljinder Kaur vs. State of Punjab"** to contend that if the ingredients of the provisions of the Act are not met with, then the bar under Section 18 cannot come in the way of the petitioner being granted the concession of anticipatory bail.

Notice of motion for 25.08.2022.

In the meantime, in the event of arrest, the appellant is

ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the appellant shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

04.07.2022

(VIKAS BAHL)
JUDGE”

Learned counsel for the appellant has submitted that in pursuance of the said order, the appellant has joined the investigation.

Learned State counsel, on instructions from ASI Varinder Singh, has submitted that the appellant has joined investigation and is not required for further investigation.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 04.07.2022, and also the fact that the appellant has joined the investigation and is not required for further investigation, the present appeal is allowed and the interim order dated 04.07.2022 is made absolute.

Nothing stated above shall be construed as an expression of 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 appeal.

(VIKAS BAHL)
JUDGE

August 25, 2022
ishwar singh

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No