

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

CRM-M-29313-2022

Date of Decision: 14.09.2022

Gurinder Singh alias Monti

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Inderjit Sharma, Advocate,
for the petitioner.

Mr. Tarun Aggarwal, Sr. D.A.G., Punjab.

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 34, dated 02.06.2022, under Sections 365/342/323/506/34 of the IPC and Sections 3 & 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, registered at Police Station Nandgarh, District Bathinda.

On 12.07.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

Inter alia contends that in the present case the alleged injuries caused to the complainant are simple in nature and the FIR has been registered after a delay of 2 days. It is further submitted that the complainant who has no right over the property, has been set up by the brother of the petitioner only to usurp the house in question. It is further submitted that as far as the offence under the SCST Act is concerned, the necessary ingredients of Sections 3 and 4 of the

SCST Act are not remotely even made out and the FIR has not been registered by specifying as to under which sub section of Section 3 of the SCST Act, the FIR has been registered. It is also submitted that in the FIR, it is not even remotely stated that the petitioner was aware of the fact that the complainant belongs to a scheduled caste, nor it has been stated that the petitioner does not belong to a scheduled caste. It is further submitted that co-accused of the petitioner namely Amandeep Singh and another had filed petition bearing No.CRM-M-27526-2022 for grant of anticipatory bail and in the said case, notice of motion has been issued and interim order has been passed and the same is now listed for 01.08.2022.

*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 SCST 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 SCST 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 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.

On advance notice, Mr. R.S. Khaira, AAG, Punjab, appears and accepts notice on behalf of the respondent-State. Mr. Arshpreet Khadial, Advocate, appears for the complainant.

Adjourned to 01.08.2022.

To be heard alongwith CRM-M-27526-2022.

In the meantime, in the event of arrest, the petitioner 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 petitioner 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.

Learned State counsel and learned counsel for the complainant are at liberty to produce on record any relevant document, if any, so as to show that the petitioner is not entitled to the concession of anticipatory bail.”

Thereafter, on 01.08.2022, the following order was passed by

this court:-

“Learned State Counsel, on instructions from Investigating Officer, has submitted that the petitioners have joined the investigation and are not required for further investigation.

Learned counsel for the complainant seeks a short adjournment to place on record some

documents to show that the petitioners do not deserve the concession of anticipatory bail.

Adjourned to 14.09.2022. Interim order to continue.

A photocopy of this order be placed in the file of other connected case.”

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

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

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 12.07.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 12.07.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as a final 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 application.

September 14, 2022
nitin

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No