

CRA-S-1321-2022 (O&M)
CRA-S-1324-2022 (O&M)

- 1 -

243/1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 27.09.2022

1. CRA-S-1321-2022 (O&M)

AARTI MAHAJAN ... APPELLANT

V/S

STATE OF PUNJAB ... RESPONDENT

2. CRA-S-1324-2022 (O&M)

RAKESH MOHAN SHARMA ... APPELLANT

V/S

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vipul Joshi, Advocate for the appellant
in CRA-S-1321-2022.
Mr. Namit Khurana, Advocate for the appellant
in CRA-S-1324-2022.
Mr. Hittan Nehra, Addl. A.G. Punjab.

Mr. S.S.Swaich, Advocate for the complainant.

* * *

VIVEK PURI, J. (ORAL)

On 28.07.2022, following order was passed:

“The appellant(s) have been arraigned as accused along with others in the case bearing FIR No. 80 dated 13.07.2022 under Sections 341, 354, 354-A, 506, 120-B IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act').

The appellant(s) had moved an application under Section 438 Cr.P.C. for grant of pre-arrest bail, which has been dismissed by the Court of learned Addl. Sessions Judge, Pathankot in terms of the impugned order.

Learned counsel for appellant-Aarti Mahajan contends that the appellant is working as a Lecturer in the College where the complainant is also working as a Lecturer. There is no allegation against the appellant that she had uttered any derogatory remarks against the caste of the complainant and even no act or overt act has been

attributed to her.

Learned counsel for appellant-Rakesh Mohan Sharma contends that the appellant is the Principal of the College. There was a dispute with regard to the regularization of the services of the complainant. The appellant had earlier submitted a complaint dated 27.10.2021, Annexure A-9 to the Senior Superintendent of Police, Pathankot apprehending that the complainant may indulge him by levelling false accusations. The husband of the complainant is a retired Police Inspector and he has retired from the Police Station where the present case has been registered. Furthermore, the incident was reported by the appellant to the Dean, Guru Nanak Dev University, Amritsar vide letter dated 09.05.2022 and the FIR has been lodged by levelling false allegations as a counter-blast.

Learned counsel for the appellants further contend that there is no allegation with regard to utterance of any derogatory remarks against the complainant attributed to the appellants. As per the allegations, no other person except the accused were present in the staff room when the alleged incident took place. There is lack of material to indicate that the occurrence took place in the public view and in such circumstances, the bar under Section 18 of the Act may not be attracted.

Notice of motion.

Mr. R.S.Khaira, AAG Punjab accepts notice on behalf of the State.

Mr. S.S.Swaich, Advocate has put in appearance on behalf of the complainant.

Learned counsel for the complainant has opposed the prayer for bail on the score that the derogatory remarks have been uttered by two students at the instance of the appellants. Furthermore, the relief of pre-arrest bail cannot be granted in view of the specific bar under Section 18 of the Act.

In the instant case, there is no allegation that derogatory remarks have been uttered by the appellants. There is lack of material to indicate that the derogatory remarks have been uttered in a public view. Moreover, there is a dispute with regard to the regularization of the services of the complainant, who is working as a Lecturer in the College where Rakesh Mohan Sharma is working as a Principal. Even at the earlier instance, there are some complaints/representations submitted by him.

Adjourned to 27.09.2022.

Meanwhile, the appellant(s) shall join the investigation and would come present as and when called for and in the event of arrest, the appellant(s) shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating

Officer. The appellant(s) shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

Photocopy of this order be placed on the file of connected case.”

Learned counsel for the appellant(s) contend that in pursuance of the interim directions issued by this Court, the appellant(s) have joined the investigation.

Learned State counsel, on instructions from ASI Nirmaljit Singh, has not assailed the aforesaid factual aspect of the case and further submitted that the custodial interrogation of the appellant(s) is not required.

Learned counsel for the complainant has opposed the bail application on the score that the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act comes into play in the instant case.

It may be mentioned here that argument of the learned counsel for the complainant has already been considered when the interim bail was granted to the appellant(s) and it was observed that there is lack of material to indicate that the derogatory remarks have been uttered in a public view.

Accordingly, the appeals are disposed of. The order dated 28.07.2022 is made absolute subject to the condition that the appellants shall comply with other conditions as specified under Section 438(2) Cr.P.C.

27.09.2022
Janki

(VIVEK PURI)
JUDGE