

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

CRA-S-1358-2022

Date of Decision: 08.09.2022

Harbhajan Singh and another

.....Appellants

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Siddharath Gupta, Advocate,
for the appellants.

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

Mr. Janak Singh Bhinder, Advocate,
for the complainant.

VIKAS BAHL, J. (Oral)

This is the first appeal filed by the appellants for grant of anticipatory bail to the appellants in case FIR No. 0038, dated 15.07.2022, under Section 3 (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, and Sections 506 and 148 of the IPC, registered at Police Station Dharamgarh, District Sangrur.

On 01.08.2022, this Court was pleased to pass the following order:-

“Learned counsel for the appellants inter alia contends that in the present case, offence under SC/ST Act is not prima facie made out inasmuch the complainant has not disclosed his caste in the FIR nor the alleged words used by the accused persons have been mentioned by the complainant in the FIR. It is further submitted that it is not alleged in the FIR that the appellants were aware about the caste of the complainant and then uttered offending words and has relied upon judgment

*passed by a Coordinate Bench of this Court in **Jai Parkash and others Vs. State of Haryana and another**, reported as **2011(3) RCR (Criminal) 217**, on the said aspect. It is contended that the FIR has been registered as a counter blast to the previous litigation which is pending between the parties and in fact, FIR No.19 dated 10.03.2022 under Sections 447, 379, 411, 120-B, 201 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Public Property (Prevention of Damage) Act, 1985 at Police Station Dharamgarh, District Sangrur was registered on the statement of Sarpanch Rani Kaur and the same was registered against 15 persons including the present complainant namely Jagsir Singh and in the said FIR, appellant No.1 was a prosecution witness. It is further contended that as a counter blast to the same, the present FIR has been registered and on the said aspect, has relied upon judgment of the Coordinate Bench in **CRM-M-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**. Further reliance has been placed upon the judgment passed by the 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.*

Notice of motion for 08.09.2022.

In the meantime, in the event of arrest, the appellants shall be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the appellants 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 counsel for the appellants have submitted that in pursuance of the above-said order, the appellants have joined the investigation.

Learned State counsel, on instructions from ASI Beant Singh, has submitted that the appellants have joined the investigation and are not

required for further investigation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 01.08.2022 and also the fact that the appellants have joined the investigation and are not required for further custodial interrogation, the present petition is allowed and the interim order dated 01.08.2022 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 08, 2022
nitin

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No