

243/5 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-1394-2022 (O&M)

Date of Decision: 27.09.2022

NUPUR GUPTA

... APPELLANT

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Inderjit Sharma, Advocate for the appellant.  
Mr. Hittan Nehra, Addl. A.G. Punjab.  
Mr. S.S.Swaich, Advocate for the complainant.

\* \* \*

VIVEK PURI, J. (ORAL)

On 05.08.2022, following order was passed:

“The appellant has 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 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 contends that the appellant is working as a Lecturer in the College where the complainant is also working as a Lecturer. The allegation is to the effect that the appellant was sitting in the staff room and consuming tea when the alleged occurrence took place. There is no allegation against the appellant that she had uttered derogatory remarks against the caste of the complainant and even no act or overt act has been attributed to her. Furthermore, two of the co-accused namely Aarti Mahajan and Rakesh Mohan Sharma have been granted interim protection by this Court. Aarti Mahajan is also working as a lecturer and Rakesh Mohan Sharma is working as a Principal in the college. 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.

Ms. Ruchika Sabherwal, 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 appellant and others. 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 appellant. There appears to be lack of material to indicate that the derogatory remarks have been uttered in a public view. Similarly placed co-accused namely Aarti Mahajan and Rakesh Mohan Sharma have been granted interim protection.

Adjourned to 27.09.2022.

Meanwhile, the appellant shall join the investigation and would come present as and when called for and in the event of arrest, the appellant shall be admitted to interim bail on her furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The appellant shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

To be heard with **CRA-S-1321-2022.**"

Learned counsel for the appellant contends that in pursuance of the interim directions issued by this Court, the appellant has 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 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 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 appeal is disposed of. The order dated 05.08.2022 is made absolute subject to the condition that the appellant shall comply with other conditions as specified under Section 438(2) Cr.P.C.

**27.09.2022**

Janki

**(VIVEK PURI)  
JUDGE**

*Whether speaking/reasoned : Yes/No*  
*Whether reportable : Yes/No*