

**CRA-S-1413-2022 and
CRA-S-1414-2022**

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**243/3 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 27.09.2022

1. CRA-S-1413-2022 (O&M)

ABHISHEK MAHAJAN		... APPELLANT
	V/S	
STATE OF PUNJAB		... RESPONDENT

2. CRA-S-1414-2022 (O&M)

CHAKSHU MAHAJAN		... APPELLANT
	V/S	
STATE OF PUNJAB		... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.S.Manhas, Advocate for the appellant(s).

Mr. Hittan Nehra, Addl. A.G. Punjab.

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

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VIVEK PURI, J. (ORAL)

On 08.08.2022, following order was passed:

“The appellants 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 SC & ST (Prevention of Atrocities) Act, 1989 (for short ‘the Act’).

The appellants 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 Additional Sessions Judge, Pathankot in terms of the impugned order.

Learned counsel for the appellants contend that the appellants are students in the college where the complainant is working as a Lecturer. The allegation is to the effect that the appellants along with the teachers were present in the staff room and consuming tea when the alleged occurrence took place. There are three co-accused, namely, Aarti Mahajan, Rakesh Mohan Sharma and Nupur Gupta who have been granted interim bail by this Court. Aarti Mahajan

and Nupur Gupta are also working as Lecturer and Rakesh Mohan Sharma is working as Principal in the College. As per the allegations, no other person except the accused were present in the staff room or at the place where 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. Hittan Nehra, Addl. AG, Punjab accepts notice on behalf of the respondent-State.

Mr. S.S.Swaich, Advocate has put in appearance on behalf of the complainant(s) in both cases and filed memo of appearance, which are taken on record.

Learned counsel for the complainant(s) has opposed the prayer for bail on the score that the derogatory remarks have been uttered by the appellants at the instance of the teachers. 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 appears to be lack of material to indicate that the derogatory remarks have been uttered in a public view. The three of the co-accused have been granted interim protection.

Adjourned to 27.09.2022.

Meanwhile, it is directed that in the event of arrest, the appellant(s) be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that they join the investigation and comply with other conditions as specified under Section 438(2) Cr.P.C.

To be heard along with CRA-S-1321-2022.

A photocopy of this order be placed on the file of other 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 08.08.2022 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

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