

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-1443-2022
Date of decision:28.09.2022

Manish Kumar and another

... Appellants

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Raj Kapoor Malik, Advocate for the appellants.
Mr. Dhruv Sihag, AAG, Haryana.
Mr. Kapil Kumar, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

This appeal has been filed against the order dated 29.07.2022 passed by Additional Sessions Judge, Kaithal, whereby application filed by the appellants for grant of anticipatory bail has been dismissed

On 17.08.2022, this Court was pleased to pass the following order:-

*“Inter alia contends that in the present case, Manphool, who has been alleged to have been abducted, is already free and no offence under Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is prima facie made out inasmuch as in the FIR, it has not been alleged by the complainant that the petitioner was aware of the fact that the complainant or Manphool belonged to the Scheduled Castes or Scheduled Tribes and has relied upon the 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 situations, bar under Sections 18 and 18-A of the SC/ST 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 SC/ST 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 in case the FIR is a counter blast to the complaint given by the petitioner or 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. It is further submitted that one Manoj Dhanda is the authorised licensee of ZKTL-10 for the year 2022-23 in District Kaithal and is running large number of vends and sub-vends and the present appellants are his partners and are managing the said vends in the area of village Deoban to village Narwal and the appellants saw two young men going on motor cycle and when the young men fell down, the appellants tried to help them, one of them ran away and the other was in illegal possession of one case of country made liquor and the appellants intimated the same to the police station and the present FIR has been got registered as a counter blast to the said application. It is further submitted that one of the said persons was Manphool and subsequently the appellants learnt that the brother of said Manphool, i.e. Subhash got the present FIR registered. Learned counsel for the appellants has pointed out that a coordinate Bench of this court in **CRM-M-27873-2022** titled as “**Sukhdeep Singh vs. State of Punjab**” decided on 01.07.2022 has held that the appeal could be maintainable in case of rejection of anticipatory bail and thus, has submitted that the present appeal is maintainable.*

Notice of motion.

On advance notice, Mr.Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State.

Adjourned to 28.09.2022.

In the meantime, in the event of arrest, the appellants are ordered to 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.

*(VIKAS BAHL)
JUDGE”*

17.08.2022

Learned counsel for the appellants has submitted that in

pursuance of the said order, the appellants have joined the investigation.

Learned State counsel, on instructions from DSP Sajjan Kumar, has submitted that the appellants have joined investigation and are not required for further investigation.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 17.08.2022, and also the fact that the appellants have joined the investigation and are not required for further investigation, the present appeal is allowed and the interim order dated 17.08.2022 is made absolute.

Nothing stated above shall be construed as an 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 appeal.

		(VIKAS BAHL)
		JUDGE
28.09.2022	Whether speaking / reasoned	Yes/No
ishwar	Whether reportable	Yes/No