

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

CRM-M-37515-2022
Date of Decision:-**08.09.2022**

Arjun Chabbra ... Petitioner

Versus

State of Haryana and another ... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Bikram Chaudhary, Advocate with
Mr. Jaivir Chawdail, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Aanand Kumar Maurya, Advocate
for the complainant.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of anticipatory bail in case having FIR No.170 dated 9.3.2021 registered under Section 3(1)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'Act of 1989') and Section 506 IPC at Police Station Hansi City District Hisar.

Counsel for the petitioner submitted that the petitioner is a qualified Company Secretary and is also having degree in Master of Laws and is running a You Tube Channel under the name and style of 'ACT-Arjun Chhabra Tutorial' and has been uploading videos on various subjects of law such as Contract Act, Companies Act, Indian Partnership Act, Sale of Goods Act etc.

The counsel for the petitioner further submits that the present FIR is nothing but abuse of the process of law and the same has been lodged by complainant, who is stated to be a student of Law and belongs to Schedule Caste, with ulterior motive in order to harass, humiliate and blackmail the petitioner. The counsel for the petitioner further submits that actually no offence is made out in the present case. That the video in question was uploaded by the petitioner without any *mala fide* intention or to hurt the sentiments of any particular community or caste. The counsel for the petitioner further submits that the petitioner was having no intention to cause hurt to the feelings of the complainant.

The counsel for the petitioner further submits that as in the instant case no *prima facie* case is made out under the of the Act of 1989, the bar created by Sections 18 and 18A(2) of the Act of 1989 is not to apply. In this context the counsel for the petitioner referred to judgment of Hon'ble Supreme Court dated 10.2.2020 in **Writ Petition(c) No.1015 of 2018, Prathvi Raj Chauhan vs. Union of India and Ors.**

The counsel for the petitioner also referred to Interim Order dated 4.2.2022 passed by the Coordinate Bench of this Court in **CRM-M-4732-2022** titled as **Munmun Dutta vs. State of Haryana**, wherein interim relief was granted to the accused who made a vlog for You Tube and used word '*Bhangi*' (a sub-caste declared Schedule Caste in the North India), in a derogatory manner resulting in registration of FIR under Section 3(1)(u) of Act of 1989 at Police Station Hansi City District Hisar.

The counsel for the petitioner further submits that there are also allegations against the petitioner that he used abusive language in WhatsApp

messages sent to the complainant by the petitioner. The counsel for the petitioner has submitted that the said messages were not in public view and as such no offence is made out under the Act of 1989 with regard to the said allegations. In this context the counsel for the petitioner referred to **Parmod Surya Bhan Panwar vs. State of Maharashtra, 2019(3) SCC (CrI.) 903**. The counsel for the petitioner while concluding his arguments, made prayer that petitioner be allowed to join investigation with the police.

The present petition is opposed by the State counsel, who while referring to **Prathvi Raj Chauhan's** case (supra) submitted that the Court can grant interim relief only in exceptional cases with regard to offences punishable under the Act of 1989. The State counsel has further contended that in the instant case the petitioner has nowhere denied the fact that he uploaded the video on You Tube, in which, he used derogatory words against '*Chamar*' community, to which the complainant belongs. The State counsel further submits that in this manner, the petitioner hurt the sentiments of the complainant. The State counsel further submitted that as the said video was uploaded on You Tube, the contents of the same became public. The State counsel further submits that the uploading of the video in question amounts to visible representation and as the petitioner used abusive and insulting language against particular Schedule Caste, *prima facie* case is made out against the petitioner and as such, the bar created under Section 18 of the Act of 1989 is applicable to the case at hand.

I have considered the submissions made by the counsel for the parties.

As per the allegations recorded in the FIR, the petitioner uploaded a video in which he gave example of '*Chamar*' community and also used disparaging language against '*Chamar*' community and thereby tried to promote hatred or ill-will against the members of the said Schedule Caste community. There are also allegations that the said video was watched by the complainant, who belongs to '*Chamar*' community and thereafter the complainant tried to contact the petitioner as he felt insulted after watching the same. There are also allegations that thereafter the petitioner also sent WhatsApp message, wherein he used abusive language against the complainant and also used derogatory words regarding his caste in the said message.

In the modern times with advancement of digital technology, when such a video is uploaded on internet, it immediately becomes viral and is viewed by large number of persons and thus becomes public. The same is the case in the instant petition and thus *prima facie* case is made out under Section 3(1)(u) of the Act of 1989 and this being the position no ground is made out to grant concession of anticipatory bail to the petitioner in the light of the embargo provided under Section 18 of the Act of 1989.

Consequently, the present petition is hereby dismissed. However, it is clarified that the observations made in this order are solely for the purpose of disposal of the present petition and shall not be binding in any other proceedings.

(KARAMJIT SINGH)
JUDGE

08.09.2022
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No