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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42453-2021
Date of Decision:21.03.2022

Mohamad and another

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vivek Singla, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure read with Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.193 dated 27.05.2021, under Sections 147, 149, 323, 506 IPC and later on Section 3 of SC & ST Act was added, registered at Police Station Pataudi, District Gurugram.

The learned counsel for the petitioners has submitted that in pursuance of the orders passed by this Court on 01.11.2021 the petitioners have joined investigation and they are fully cooperated with the investigation process. He further submitted that in view of the aforesaid position the interim protection granted by this Court may be confirmed. He further submitted that it is a case where earlier the petitioners were arrested

on 01.06.2021 and 02.06.2021 respectively and they were released on bail and they had also joined the investigation in pursuance of the earlier FIR which was registered under Sections 147, 149, 323 and 506 IPC and it was after some time that the provisions of Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were added. He further submitted that thereafter since there was an enhancement of the offence no permission was taken from the trial Court for the arrest of the petitioners. He further submitted that even otherwise the imputations against the petitioners pertaining to SC and ST Act were not on the record and, therefore, the bar contained under Sections 18 and 18-A of the SC and ST Act will not be applicable to both the petitioners in the present case in view of the law laid down by the Hon'ble Supreme Court in ***Prathvi Raj Chauhan Vs. Union of India and others [2020(4) SCC 727]*** because on the face of it and *prima facie* no offence was made out. He further submitted that apart from the same, the petitioners cannot be arrested without the permission of the Court in view of the law laid down by the Hon'ble Supreme Court in ***Pardeep Ram Vs. State of Jharkhand [2019(3) RCR (Criminal) 538]***.

Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that he has sought instructions from ASI Azad Singh that in pursuance of the orders passed by this Court both the petitioners have joined investigation and they have cooperated with the investigation process and he has specific instructions to say that the petitioners are not required for custodial interrogation. On a query being asked to the learned State counsel as to whether in the investigation anything has come forth with regard to the allegations pertaining to SC & ST Act, he submitted that it is

only on the basis of the disclosure statement of the petitioners themselves that the same was added and as of now there is no other sufficient material to connect the petitioners with the offences pertaining to SC & ST Act.

I have heard the learned counsel for the parties.

This Court does not wish to go into the merits of the controversy because the present petition pertains only for the grant of anticipatory bail. As per the stand taken by the learned State counsel, the petitioners have joined investigation and they are not required for custodial interrogation. So far as the bar contained under Section 18 and 18-A of the SC & ST Act is concerned, *prima facie* the State has not been able to make out any ground to show as to how the petitioners were connected with the aforesaid offence under the SC & ST Act and, therefore, *prima facie* at this stage, Sections 18 and 18-A of the SC & ST Act will not become a bar for grant of anticipatory bail. Apart from the same, in view of the law laid down by the Hon'ble Supreme Court in ***Pardeep Ram Vs. State of Jharkhand (Supra)*** earlier the petitioners were released on bail but thereafter they are sought to be arrested without the permission of the Court and, therefore, the same was not permissible in view of the aforesaid judgment of the Hon'ble Supreme Court.

In view of the aforesaid position, the present petition is allowed.

The order dated 01.11.2021 is hereby made absolute.

21.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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