

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

236+1

CRA-S-101-2023

Date of Decision: 28.03.2023

Babaljit Kaur And Others

...Appellants

Versus

State of U.T., Chandigarh and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. S.S. Thakur, Advocate for the appellants

Mr. Y.S. Rathore, Addl. P.P., U.T., Chandigarh

Mr. Namit Gautam, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

Mr. Namit Gautam, Advocate appeared and filed his Power of Attorney on behalf of the complainant. The same is taken on record.

Registry is directed to tag at an appropriate place.

On 11.01.2023, the following order was passed:-

“Through instant appeal under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (for short SC/ST Act), the appellants are seeking setting aside of order dated 03.01.2023 passed by ASJ, Chandigarh and anticipatory bail in FIR No.321 dated 22.12.2022, registered at Police Station Sector 36, Chandigarh under Sections 306, 498A of IPC and Section 3(2)v of the S.C and S.T. Act (added later on).

Learned counsel for the appellants inter alia contends that appellant No.1 is sister in law, appellant No.2 is father-in-law and appellant No.3 is mother-in-law of the deceased. The deceased solemnized inter-caste marriage with the son of the appellants. The deceased committed suicide on 23.07.2022 on account of merciless beating by her brother and FIR against the appellants came to be registered on 22.12.2022. The complainant and all other family members of the deceased were present at the time of cremation of the deceased. It was complainant who signed in the register maintained at cremation ground and disclosed cause of death as 'heart attack' at home. The FIR does not disclose commission of offence under SC/ST Act, however, to pressurize the appellants, provisions of SC/ST Act have been invoked. The appellants are innocent person and they have not committed the alleged offence. The appellants are not involved in any other offence. The appellants are permanent resident of S.A.S. Nagar Mohali. The appellants are ready to join investigation and face trial. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to entire family. Notice of motion returnable for 24.02.2023.

Ms. Pallavi Babbar, Advocate for Mr. Y.S. Rathore, Addl.P.P, U.T. Chandigarh, who is present in court on advance notice, seeks time to file status report.

Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022)10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra &Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, at the first instance, the appellants are directed to appear before investigation officer on 19.01.2023 and thereafter as directed by IO. In the event of arrest, the appellants shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The appellants shall cooperate the investigating officer.

If the arresting officer does not permit the appellants to join the investigation, the appellants would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct them to join the appellants in investigation, in terms of the order of this Court..”

Learned State counsel, on instructions from Investigating Officer, submits that appellants have joined investigation and no custodial interrogation is required. He further submits that challan stands presented.

In view of the above facts and circumstances, the appeal is allowed and the interim bail granted to the appellants vide order dated

11.01.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the appellants or their family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

28.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>