

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

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CRA-S-126-2023

Date of Decision: 10.04.2023

Gurbachan Singh and Others**...Appellants****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Vivek Chauhan, Advocate for the appellants

Mr. Shiva Khurmi, AAG, Punjab

Mr. Aayush Gupta, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

Reply by way of affidavit dated 10.04.2023 of Harinder Pal Singh, P.P.S., Superintendent of Police (Investigation) Ludhiana (Rural), filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

On 23.01.2023, the following order was passed:-

“Through instant appeal under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (for short ‘SC/ST Act’), the appellant is seeking setting aside of order dated 21.12.2022 passed by Judge Special Court, Ludhiana and further praying for grant of anticipatory bail in FIR No.101 dated 08.12.2022 registered at Police Station Sudhar, Police District Ludhiana Rural, District Ludhiana under Sections 353, 186, 332, 294, 354 of IPC (offence under Section 3 of SC/ST added later on).

Reply by way of affidavit dated 23.1.2023 of Jasbinder Singh, DSP, Dakha, District Ludhiana (Rural) on behalf of respondent-State is taken on record. Registry is directed to tag the same at an appropriate place.

Learned counsel for the appellants inter alia contends that complainant vide order dated 17.2.2022 was charge sheeted and vide order dated 19.7.2022, a retired ADJ was appointed enquiry officer and appellant No. 1 was appointed presenting Officer and appellant No. 3 had appeared as department witness against the complainant and vide report dated 29.11.2022 allegations of illegal regularization of an employee stood proved against her, thus, complainant as a counter blast has lodged FIR against the appellants. The appellants have not created hurdle in the functioning of the complainant and she is misusing provisions of SC/ST Act.

Learned State counsel submits that there are serious allegations against the appellants. On earlier occasion, they had not permitted more than 40 BDPOs to join their office. They are always involved in mischievous activities. They do not deserve leniency and it has become very common for them to create problems for higher officials/officers in discharge of their official duties. There are serious allegations against the appellants and these allegations are coming from an officer who cannot be disbelieved at this stage.

From the perusal of FIR, it is quite evident that there are allegations of castic remarks against Sukhpal Singh, Panchayat Secretary, however, there is no allegation of manhandling as well as castic remarks

against the present appellants. Prima facie there seems to be reasons for implication of appellants at the hand of complainant.

Adjourned to 17.2.2023.

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, at the first instance, the appellants are directed to appear before investigation officer on 30.01.2023 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 co-operate 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 him to join the appellants in investigation, in terms of the order of this Court.

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..”

Learned State counsel submits that police after investigation has prepared cancellation report and it stands submitted before Trial Court on 05.04.2023, thus, appellants are not required for further custodial interrogation.

In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the appellants vide order dated 23.01.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the appellants or his 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

10.04.2023
Mohit Kumar

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