

CRA-S-292-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRA-S-292-2023

Date of Decision: 01.08.2023

Pankaj

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Yashveer Kharb, Advocate for
Mr. Rajender Singh Duggal, Advocate
for the appellant.

Mr. Susheel Gautam, Advocate
for the complainant.

Ms. Nidhi Garg, AAG, Haryana.

GURBIR SINGH, J (ORAL)

1. The present appeal has been filed under Section 14-A of SC/ST (Prevention of Atrocities) Act, 1989, against the impugned order dated 25.01.2023, whereby the appellant has been denied the concession of anticipatory bail.

2. Learned counsel for the appellant has argued that allegations leveled against the appellant are false. The complainant is the neighbour of the appellant and habitual drunkard person. There is a Kali Mata Mandir and people used to visit in Mandir for worship. The complainant creates nuisance and makes hue and cry on parking of the vehicles of in front of the Mandir. Earlier also wife of the complainant got registered false criminal complaint against the father of the appellant and others but they were acquitted vide judgment dated 03.05.2014 (Annexure A-2). The brother of the appellant namely Rahul submitted a complaint(Annexure A-3) to the Chowki In charge of Police Post on 30.12.2022 that son of the complainant

manhandling him and used derogatory language against the family members of the appellant. The appellant also having a video recording of the complainant where he was threatening that he will get a false case registered under the SC/ST Act. The provisions of SC/ST Act are not attracted in this case.

3. On 24.02.2023, the following order was passed:-

'Mr. Susheel Gautam, Advocate, appears and files his vakalatnama on behalf of the complainant. The same is taken on record.

Reply dated 10.02.2023 by way of affidavit of Dharambir Singh, HPS, Deputy Superintendent of Police, Head Quarter, Panipat, on behalf of respondent-State, is filed in Court today. The same is taken on record.

Learned counsel for the appellant submits that as per reply, offence under Section 379 IPC was deleted from the present FIR. The appellants are neighbours of the complainant. Earlier a complaint was filed against the father of the appellant. Vide judgment dated 03.05.2014 (Annexure A2), father of the appellant is declared as proclaimed offender and other accused are acquitted of the charges. The complainant earlier threatened that he would involve the appellant and his family in a false case. There was no question of threatening the appellant by the complainant in such a manner.

Learned State counsel has stated that there are three injuries mentioned in the MLR, out of which one injury was kept under observation and two injuries are found simple in nature.

Learned counsel for the complainant submits that complainant is running a shop near Mandir. The appellant is not allowing the complainant to run his shop at the alleged spot and is pressurizing the complainant to enter into a compromise in the case in which his father was declared proclaimed offender.

As per documents annexed on the file, the earlier

occurrence in which father of the appellant was involved took place in the year 2013 and now in the year 2022. No recovery is to be effected from the appellant. Earlier brother of petitioner also sent complaint to the police against the son of complainant. The appellant is ready to join the investigation.

List on 13.07.2023.

Meanwhile, in the eventuality of arrest of the appellant in the instant case, he shall be enlarged on interim bail subject to his furnishing personal bond/surety bond to the satisfaction of Investigating Officer/Arresting Officer. The appellant shall join the investigation as and when called upon to do so by the Investigating Agency. The petitioner shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.'

4. Learned State counsel on instructions states that in compliance of order dated 24.02.2023, the appellant has already joined investigation and no recovery is to be effected from him. He has also filed the status report and submitted that the case is at the investigation stage and the allegations against the appellant are serious. The appellant is not entitled for anticipatory bail.

6. In this case, it is not specifically averred in the FIR that appellant had knowledge that complainant belongs to SC caste. In the judgment of *Prathvi Raj Chauhan Vs. Union of India and others*, reported as 2020(4) SCC 727 passed by Hon'ble Supreme Court of India and judgment in case of *Jai Parkash and others Vs. State of Haryana and another*; 2011(3) RCR (Criminal) 217 passed by Coordinate Bench of this Court when it is not mentioned in the FIR that the petitioner was knowing that the complainant belongs to SC caste then provisions of Section 18 of SC/ST Act would not be applied. In case of *Jagir Chand Vs. State of Punjab* in CRM-M-3956-2020 decided on 27.02.2020 titled as

“Baljinder Kaur Vs. State of Punjab” if ingredients of the provisions of the Act 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.

7. Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in above said order dated 24.02.2023 and also the fact that the appellant has joined the investigation and is not required for further custodial interrogation, the present appeal is allowed and the interim order dated 24.02.2023 is ordered to be made absolute.

8. However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently on the observations made in the present case which are only for the purpose of adjudicating the present bail application.

9. Petition is disposed of accordingly.

01.08.2023

gyoti3/renu

**(GURBIR SINGH)
JUDGE**

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