

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

CRA-S-291-2023

Date of decision : 29.08.2023

Shamshad

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Vineet Chaudhary, Advocate and
Mr. Shivam Chaudhary, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (ORAL)

1 On 31.01.2023 the following order was passed:-

“Present appeal has been filed by the appellant against order dated 18.1.2023 passed by the Court of learned Additional Sessions Judge, Faridabad whereby the application moved by the appellant for grant of interim bail in case having FIR No.804 dated 12.12.2022 registered under Sections 147, 149, 323, 341, 506 IPC and Sections 3(1) (r), 3(1) (s), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at Police Station Suraj Kund, District Faridabad, has been dismissed.

Counsel for the appellant inter alia contends that the appellant has been falsely implicated in this case and co-accused Shahid Khan has been granted benefit of interim bail by this Court vide order dated 13.1.2023 (Annexure P-3). He further submits that the maximum punishment provided for the aforesaid offences is less than 7 years but the police intends to arrest appellant without serving him notice under Section 41-A of Cr.P.C. which as per guidelines laid down by Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 is mandatory.

Notice of motion.

Mr. Naveen Kumar Sheoran, DAG, Haryana accepts notice on behalf of the State and prays for time to seek necessary instructions as to whether any notice under Section 41-A of Cr.P.C. has been issued to the

appellant by the police till date.

List on 19.2.2023.

In the meantime, in case of arrest, the appellant is directed to be released on interim bail by the IO/Arresting Officer to his own satisfaction till the next date of hearing. The appellant should join the investigation with the police well in time before the next date of hearing and is to abide by the conditions as envisaged under Section 438(2) of Cr.P.C. ”

2 Today, learned State counsel, on instructions from ASP Abhimanyu Goyat has stated that challan stands presented on 31.01.2023 and pursuant to the order dated 31.01.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3 In view of above the interim order dated 31.01.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C and the present appeal is disposed of.

4 This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5 This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

6 The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7 It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating

during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.08.2023

Mehak

Whether speaking/reasoned	Yes
Whether Reportable :	No