

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(225)

CRA-S-396-2023

DATE OF DECISION:-17.04.2023

Nagar

...Petitioner

vs.

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Anjali, Advocate, for
Mr. Vikram Lakhlan, Advocate, for the petitioner.
Mr. Ramesh Kumar Ambavta, AAG, Haryana.
Mr. Rajesh Kapila, Advocate, for the respondent No.2.

HARKESH MANUJA, J.

By way of present appeal, challenge has been made to an order dated 01.02.2023 whereby, an application filed at the instance of appellant seeking grant of anticipatory bail in case FIR No.141 dated 14.07.2022 under Sections 147, 149, 323, 506 IPC (later on Section 427 IPC and Section 3(2) (va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added) registered at Police Station Jui Kalan, Bhiwani, District Bhiwani, was declined by the Court of Learned Additional Sessions Judge, Bhiwani.

On 08.02.2023, this court passed the following order:

“Appellant is seeking concession of anticipatory bail in case bearing FIR No.141 dated 14.07.2022 under Sections 147, 149, 323, 506 IPC (Section 427 IPC & Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on) registered at Police Station Jui Kalan Bhiwani, District Bhiwani.

Learned counsel inter alia contends that a perusal of the allegations levelled in the FIR in question, which has been annexed as Annexure A-1, do not attract mischief of any offence under Section 3(2)(va) of the SC&ST Act. He further submits that it

cannot be believed that as many as 35 persons would have attacked the complainant and his daughter-in-law with stones etc. and yet the complainant would have sustained a single injury on his ankle. Learned counsel also submits that petitioner has not been named in the FIR. Occurrence in question was not even in a public place but was inside the house of the complainant herself.

Notice of motion for 17.04.2023.

Meanwhile, the appellant is directed to join the investigation and appear before the investigating agency as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The appellant shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.

Learned State counsel on instructions from DSP Virender Singh, P.S. City Bhiwani, submits that in pursuance to the order dated 08.02.2023, the petitioner has joined the investigation and is no more required for the purpose of investigation.

A perusal of the FIR shows that petitioner was never named in the FIR and the incident in question took place inside the house of the complainant and thus, the commission of offence under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, becomes debatable.

In view of the aforesaid order dated 01.02.2023, passed by the Court of Additional Sessions Judge, Bhiwani, is set aside, the appeal is allowed and the order dated 08.02.2023 passed by this Court is made absolute.

17.04.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No

whether reportable: Yes/No