

243

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-913-2023

Date of Decision:- 11.05.2023

Vinit Kumar

...Appellant

Vs.

State of Haryana

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Neeraj Yadav, Advocate for the appellant.

Ms. Deepshikha Chauhan, Assistant A.G. Haryana.

AMARJOT BHATTI, J. (Oral)

1. Vinit Kumar has filed appeal under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the impugned order dated 21.03.2023 passed by learned Additional Sessions Judge, Jhajjar whereby his anticipatory bail application in FIR No. 36 dated 21.02.2023 under Section 323, 354, 354-D, 506, 509 read with Section 34 of I.P.C. and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been declined. The copy of FIR is Annexure A-1.

2. The facts of the case are that the prosecutrix gave her statement to the police that she is student of second year in Government College, Badli. She is 19 years old. On 20.02.2023, at about 02:00 P.M. after attending her college, she boarded a bus for going to her village. When the bus reached at Bus Stand Ghubana, Deepak boarded the bus, whereas Vinit who is resident of her village was going on a bike behind the bus. Deepak

started molesting her in the bus and forced her to be friendly with him. When she refused, he threatened to kill her. She telephonically informed her father Chaman Lal who is running a grocery store at bus stand of their village. When the bus reached at the bus stand of their village, her father was standing there. Deepak started beating her father and also abused the prosecutrix. He also made caste based remarks and threatened to kill them. The complainant stated that she belonged to *Chamar* caste. The accused persons fought with them and thereafter, managed to escape from there. With these allegations, present FIR was registered.

3. The present appellant filed anticipatory bail application before the trial Court which was rejected vide impugned order dated 21.03.2023. Feeling aggrieved of this order, the present appeal has been preferred.

4. Learned counsel for the appellant argued that from the facts stated in the FIR, it is clear that he has not done anything and is falsely implicated in this case. All the allegations are against co-accused Deepak who is already arrested and released on bail. He has not said anything incriminating which would fall under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. To support his arguments he has put reliance on the authority of Coordinate Bench cited in **2022(1) R.C.R.(Criminal) 240** case titled **Hamidi Versus State of Haryana**. He is ready to join the investigation. No recovery is to be effected from him. Without considering the contents of the FIR, his anticipatory bail has been wrongly declined. It is prayed that appeal preferred by the appellant may be accepted and he may be granted relief of anticipatory bail.

5. The learned counsel representing the State has filed detailed status report. It is pointed out that the present appellant is specifically

named by the complainant. Rather, he is giving threats to the complainant and her family to withdraw the present case. The caste certificate of the victim is also produced. The main accused Deepak Kumar @ Bholu was arrested in this case. Copy of his bail order dated 21.04.2023 is also placed on record. The present appellant is yet to join the investigation. There is specific bar for grant of anticipatory bail under Section 18 of the the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore his anticipatory bail application was rightly declined by the learned Additional Sessions Judge, Jhajjar. The appeal preferred by the appellant is without merits. Therefore, the same may be dismissed.

6. I have considered the arguments and have gone through the record carefully. From the contents of FIR recorded on the statement of prosecutrix, it is clear that the main allegations are levelled against Deepak s/o Gajraj and it is further alleged that when the bus stopped at the bus stop of their village, Deepak started abusing her father. He further abused her and her father by passing caste based remarks and threatened to kill them. In the entire FIR, the allegations levelled against the present appellant is that Deepak alighted from the motorcycle driven by the present appellant and boarded the bus and after the entire episode, he escaped on the motorcycle of the present appellant. He was not accompanying Deepak when he boarded the bus. The appellant did not utter caste based remarks to the complainant or her father which would constitute an offence falling under the provisions of Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Therefore, the bar under Section 18 of the aforesaid Act would not apply to the appellant seeking the relief of anticipatory bail. Under these circumstances, the

impugned order passed by learned Additional Sessions Judge, Jhajjar dated 21.03.2023 is not justified. Accordingly, the appeal preferred by the appellant is accepted with the direction to join the investigation as and when required and in the event of his arrest, he be released on bail to the satisfaction of Arresting Officer/Investigating Officer, subject to the provisions enshrined under Section 438(2) Cr.P.C.

The petition is accordingly, accepted.

11.05.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No