

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

CRA-S-956-2023

Date of Decision : 22.12.2023

Sachin

.....Petitioner

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Parveen Chauhan, Advocate,
for the appellant.

Mr. Bhupender Singh, DAG, Haryana.

Respondent no.2/Complainant in person.

KULDEEP TIWARI. J.(Oral)

1. On 29.03.2023, the following order was passed by a co-ordinate Bench of this Court:-

“The present appeal has been filed by the appellant against the order dated 16.3.2023 whereby the application filed by the appellant under Section 438 Cr.P.C. for grant of anticipatory bail in case having FIR No.19 dated 28.01.2023 (Annexure A-1) has been dismissed by learned Additional Sessions Judge-I, Karnal vide order dated 16.03.2023.

The counsel for the appellant inter alia contends that as per the allegations recorded in the FIR, complainant namely EASI Suresh Kumar while on his official duty found that the appellant was abusing one Mohinder son of Dhan Singh, in the name of his caste while standing outside his house on 27.1.2023 at about 10 pm. The counsel for the appellant further submits that no complaint has been lodged by aforesaid Mohinder with regard to aforesaid incident and complaint has been lodged by EASI Suresh Kumar, who is not belonging to SC/ST caste. The counsel further submits that no notice under Section 41-A Cr.P.C. has been issued to the appellant by the police as is required to be issued before effecting the arrest as per guidelines issued by Hon'ble Supreme Court in Armesh Kumar vs. State of Bihar, (2014)8 SCC 273. The counsel for the appellant further submits that the appellant is ready to join investigation with the police.

Notice of motion.

On the asking of the Court, Mr. Naveen Kumar Sheoran, DAG, accepts notice on behalf of State of Haryana and on instructions from ASI Surinder Kumar submits that in the present case EASI Suresh Kumar found that the petitioner was abusing one Mohinder son of Dhan Singh in the name of his caste while standing in front of house of Mohinder. However, the State counsel has admitted that no complaint has been lodged by Mohinder and further no notice under Section 41-A Cr.P.C. was issued to the appellant and that the complainant is not belonging to SC/ST caste.

In view of the above, it is a debatable issue as to whether any offence under the SC/ST Act has been made out against the appellant in the absence of complaint being lodged by person belonging to SC/ST caste. So, in case of arrest, the appellant is directed to be released on interim bail by the Investigating Officer/Arresting Officer subject to his own satisfaction. The appellant should join investigation with the police well in time before the next date of hearing and to abide by the conditions envisaged under Section 438 (2) Cr.P.C. The report of the Investigating Officer be also called in this context on the next date of hearing.

Now be listed on 17.8.2023.”

2. Learned State counsel, on instructions imparted to him by HC Sunil, submits that the appellant has already joined the investigation in pursuance to the aforesaid order and he has fully co-operated with the investigation process and he is no more required for any further custodial investigation.

3. In view of the specific stand taken by the learned State counsel, the present appeal is allowed and order dated 29.03.2023 is, hereby, made absolute.

(KULDEEP TIWARI)
JUDGE

December 22, 2023
dharamvir

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No