

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-1745-2023(O&M)
Date of decision: 14.12.2023

Krishan Kumar

....Appellant.

Versus

State of Haryana and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Dr. Pankaj Nanhera, Advocate,
for the appellant.

Mr. Surender Singh, AAG, Haryana.

Ms. Manisha Singh, Advocate,
for, Mr. Pardeep Sihmar, Advocate,
for the complainant.

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SANJIV BERRY, J. (ORAL)

Instant appeal has been preferred against the order dated 09.06.2023 vide which the anticipatory bail of the appellant, filed under Section 438 Cr.P.C., in case FIR (Annexure A-1), had been declined by the learned Additional Sessions Judge, Hisar-cum-Vacation Judge, Hisar, Haryana. Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
394	02.06.2023	Sections 147, 149, 323 IPC, and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	P.S Azad Nagar, Hisar

2. Heard.

3. Learned counsel for the appellant contends that appellant is innocent and has been falsely implicated in this case. He further contends that even the name of the appellant does not figure in the aforesaid FIR in question. He further contends that vide order dated 19.06.2023, appellant had been directed to join investigation and granted interim bail. He submits that the petitioner has already joined the investigation.

4. During the course of hearing on 19.06.2023, following order was passed: -

“Learned counsel for the appellant submits that there is no specific allegation which would have made out an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He submits that the allegations have been added only with a view to add a non-bailable offence. Learned counsel relies upon the judgment passed by the Hon'ble Supreme Court of India i.e. Writ Petition (C) No.1015 of 2018 titled as "Prathvi Raj Chauhan Vs. Union of India and Others". He further submits that the appellant is willing to join investigation and abide by any condition imposed by this Court.

Notice of motion.

Mr. Amit Aggarwal, DAG, Haryana, accepts notice on behalf of the respondent-State.

List on 10.08.2023.

In the meantime, the appellant is directed to join investigation. In the event of arrest, he shall be released on interim bail to the satisfaction of the Arresting/Investigating Officer, subject to compliance of the provisions of Section 438 (2) Cr.P.C.”

5. Learned State counsel, on instructions from ASI Naresh Kumar, informs the Court that the appellant has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

6. Per contra, learned counsel for the complainant submits that the petitioner has committed a heinous crime and as such he does not deserve concession of bail and prays for dismissal of the present appeal.

7. After considering the rival contentions and perusing the record, it transpires that the petitioner has been booked in the instant FIR for having committed offence punishable under Sections 147, 149, 323 IPC and Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'the SCs and STs Act 1989'). It is debatable that whether the allegations levelled in the complaint attract the provisions of the SCs and STs Act 1989, in the light of the judgment of Hon'ble Apex Court in ***Writ Petition (C) No. 1015 of 2018*** titled as '***Prithvi Raj Chauhan vs. Union of India and others***'. At the same time, it is not disputed that the petitioner after having been directed vide order dated 19.06.2023 has joined the investigation. As per learned State counsel, he is not required for further investigation nor he is required for custodial interrogation of the case. This be the case, the interim bail granted to the petitioner

vide order dated 19.06.2023 is hereby confirmed subject to the conditions as envisaged under Section 438(2) Cr.PC. The petitioner is directed to join investigation as and when required in future also by way of a written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

8. With these observations, impugned order dated 09.06.2023 passed by learned Additional Sessions Judge, Hisar-cum-Vacation Judge, Hisar, Haryana, is set aside and the instant appeal stands allowed.

(SANJIV BERRY)
JUDGE

14.12.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |