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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 23.08.2023

Mastana

....Appellant

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Karan Garg AAG Haryana.

Mr. Manoj Kumar Taya, Advocate for the complainant.

ARUN MONGA, J. (Oral)

Present appeal has been filed challenging order dated 12.07.2023 passed by learned Additional Sessions Judge, Karnal in Bail Application No.3070 of 2023 titled '*Mastana Vs. State of Haryana*', whereby bail application of appellant, seeking concession of anticipatory bail in case FIR No.486 dated 22.05.2023, registered under Sections 323, 341, 506 IPC and Sections 3(1)(R), 3(1)(S), 3(2)(VA) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act'), at Police Station, Sadar Karnal, was dismissed.

2. Learned counsel for the appellant contends that allegations levelled in the FIR are totally false and frivolous. In fact, appellant never insulted the complainant by using derogatory words related to his caste. He further submits that appellant contested the election for the post of Sarpanch in which he lost against the brother of the complainant. Later on, appellant discovered that caste certificate submitted by brother of complainant at the time of election for the post of Sarpanch, was false and he made a complaint to Deputy Commissioner in

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that regard. Due to this political faction in village, instant FIR was registered. Moreover, there is delay of 02 days in registration of FIR.

2.1. Learned counsel for appellant would further urge that complainant and his brother in fact belong to Rajput Caste and as such, question of appellant using caste related words for complainant does not arise. Further contends that no case under the SC/ST Act is made out against appellant.

2.2 Learned counsel for the appellant further submits that pursuant to earlier order dated 18.07.2023 passed by this Court, appellant has joined investigation and has fully cooperated in the same.

3. Learned State counsel, per his instructions from SI Nafeh Singh, submits that appellant has joined investigation and in view of cooperation rendered by him, no custodial interrogation of appellant is required.

3.1 Status report dated 22.08.2023 has been tendered by learned State counsel during the course of hearing, is taken on record. Para 5 of the same states as under:

“5. That the petitioner then filed the present appeal in which the petitioner was granted the concession of interim bail. Accordingly, on 21.07.2023, the petitioner in compliance of the order dated 18.07.2023, came present in the office of Deputy Superintendent of Police (Traffic), Karnal and joined the investigation. The petitioner was formally arrested and he suffered his disclosure statement dated 21.07.2023 and has admitted the commission of the crime in the present case. The petitioner also produced the original Registration Certificate of car bearing its Registration No.HR-29-LA-1147, which was taken in to police possession vide recovery memo dated 21.07.2023. After the petitioner has joined the investigation he was no required for further investigation therefore, the petitioner was released on furnishing personal and surety bonds to the satisfaction of the investigating officer.”

4. Learned counsel for complainant vehemently opposes the appeal and submits that complainant was repeatedly harassed and insulted by the appellant in public view. Further urges that in view of specific bar created under Section

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18 of the SC/ST Act, appellant does not deserve the concession of anticipatory bail.

5. Arguments heard.

6. *Prima facie* it appears that no offence under the SC/ST Act is made out against appellant.

7. On a Court query, learned counsel for complainant is unable to show any case law to the effect that in case State does not require custody of an accused in FIR case, yet the accused has to be necessarily taken in custody, merely because complainant insists so.

8. Be that as it may, in view of the above, since custodial interrogation of appellant is no more required and he has already joined investigation and cooperated with the investigating officer, present appeal is allowed and order dated 12.07.2023 passed by learned Additional Sessions Judge, Karnal is hereby set-aside. However, order dated 19.07.2023 passed by this Court granting interim anticipatory bail to the appellant is made absolute, subject to appellant complying with provisions under Section 438(2) Cr.P.C.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 23, 2023
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No