

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**239****CRA-S No.2272 of 2023****Date of Decision : 28.11.2023**

Lokesh Koli

....Appellant

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Varun Dutta, Advocate for the appellant.

Ms. Ankita Ahuja, AAG Haryana.

ALKA SARIN, J. (Oral)

1. This is an appeal under Section 14/A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 438 of the Code of Criminal Procedure, 1973 against the order dated 07.07.2023 passed by the Additional Sessions Judge-cum-Judge, Special Court, Bhiwani whereby the application for grant of anticipatory bail filed by the petitioner has been dismissed in FIR No.586 dated 05.10.2022 under Sections 354-A, 341, 506, 509, 34 of the Indian Penal Code, 1860 (IPC), Section 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)V-a of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC & ST Act) registered at Police Station City Bhiwani, District Bhiwani.

2. On 31.08.2023 the following order was passed :

“This is an appeal under Section 14/A of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.586 dated 05.10.2022 under Sections 354-A, 341, 506, 509, 34 of the Indian Penal Code, 1860 (IPC), Section 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2) V-a of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC & ST Act) registered at Police Station City Bhiwani, District Bhiwani.

Learned counsel for the appellant at the outset states that the appellant himself belongs to the Scheduled Castes and Scheduled Tribes and as such the provisions of the SC & ST Act would not be applicable qua him. It is further the contention that the allegations against the appellant are that he along with some other boys had threatened to kidnap both the daughters of the complainant and had also abused them and acted in a vulgar manner with both the daughters of the complainant. Learned counsel would further contend that the appellant was not present at the spot and further that over hundred people were present there and Ram Leela was being conducted at the spot and that the allegation that the appellant would behave in such a manner in a public place is highly improbable. Learned

counsel has further contended that there is a previous history of enmity since the husband of the complainant, who was a prosecution witness in the FIR lodged by the father of the appellant herein, had turned hostile.

Notice of motion.

Ms. Mahima Yashpal, DAG Haryana accepts notice on behalf of respondent-State of Haryana.

The State has filed a status-report by way of affidavit of Ramesh Kumar, HPS, Deputy Superintendent of Police (HQ) Bhiwani. Learned State counsel has pointed that the appellant was present at the spot. Learned State counsel, on instructions from DSP Ramesh Kumar, is not in a position to deny that the appellant herein also belongs to SC and ST category.

List on 28.11.2023.

Meanwhile, the appellant is directed to join investigation as and when called for. In the event of arrest, the appellant shall be admitted to interim bail on furnishing personal bonds with adequate surety to the satisfaction of the Arresting Officer. The appellant shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

3. Learned counsel for the appellant states that the appellant has since joined the investigation and fully cooperated.

4. Learned counsel for the State on instructions from ASI Ram

Mehar has stated that the appellant has since joined investigation and fully cooperated and that he is no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 31.08.2023 is made absolute. The appellant shall, however, join investigation as and when called. The appellant shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

28.11.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO