

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48664 of 2021(O&M)

Date of Decision: 24.01.2023

Vipin Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Ms. Meenakshi Bali, Advocate
For the petitioner.

Mr. Naveen Sheoran, DAG Haryana.

Mr. Diwan S. Adhlakha, Advocate
For the complainant.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 248 dated 17.06.2021 registered under Sections 323, 342, 406, 506, 120-B IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, Police Station Gandhi Nagar, District Yamuna Nagar.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case at the instance of complainant Shashi Bala, whose husband during his lifetime executed one agreement to sell his property with the petitioner for valuable consideration and when the said proposed vendor failed to execute the sale deed, suit for specific performance was filed and the said suit was decreed *ex parte* vide judgment dated 05.08.2015 (Annexure P-2) and thereafter application for execution of

the said decree was also filed and in the meantime the husband of the complainant died and only after the death of her husband the complainant lodged the present FIR leveling false allegations against the petitioner in order to counter the aforesaid *ex parte* decree. The counsel for the petitioner further submits that the petitioner has joined the investigation with the police in compliance of the order of interim bail dated 22.11.2021.

The present petition is contested by counsel for the complainant who submits that the complainant is a poor widow and the petitioner tried to take forcible possession of her residential house and also attacked her. The counsel for the petitioner further submits that the petitioner was having no knowledge about passing of any *ex parte* decree against her husband with regard to the property in question. The counsel for the complainant further submits that as in the present case offences under SC & ST Act are there, only appeal under Section 14-A of the Act is maintainable and on this sole ground the present petition filed under Section 482 Cr.P.C. deserves to be dismissed.

The State counsel on instructions from DSP Rajim Kumar submits that the petitioner joined the investigation and further gave answers to the questionnaire which was put to him by the Investigating Officer and that now the petitioner is not required by the police for any further custodial interrogation.

I have considered the submissions made by counsel for the parties.

The present petition was filed on 15.11.2021 and in response to notice of motion the counsel for complainant put in appearance on 22.11.2021 but at the initial stage no objection was raised by the counsel for the complainant with regard to the maintainability of the present petition. So, this Court is of the view that the objection regarding maintainability of the present petition which is raised for the first time today cannot be entertained at this stage, when the petitioner is not required by the police for any further investigation.

Admittedly, civil dispute is going on between the parties with regard to one residential house which as per the petitioner was agreed to be sold by the husband of the complainant to him and regarding which now there is *ex parte* decree in favour of the petitioner. Further, the petitioner who has joined the investigation is no more required by the police for any further investigation. Thus, no purpose is going to be served by sending the petitioner to police custody at this stage.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order of interim bail dated 22.11.2021 is made absolute. The petitioner should abide by the conditions as envisaged under Section 438(2) Cr.P.C.

24.01.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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