

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

[202]

CRA-S-1941-2022**Date of Decision:08.02.2023**

Sita Singh alias Surjit Singh and others

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Karandeep Singh Sidhu, Advocate
for the appellants.

Mr. Amish Sharma, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

The instant appeal is filed against the impugned orders dated 04.08.2021 and 11.08.2021 passed by the Judge, Special Court, Ferozepur whereby the application for grant of anticipatory bail qua the present appellants has been dismissed whereas interim bail to their co-accused has been granted.

This Court vide order dated 30.09.2022 granted interim protection to the appellants. The relevant extracts of which read as:

“The instant appeal is filed against the impugned orders dated 04.08.2021 and 11.08.2021, passed by the Judge, Special Court, Ferozepur, whereby the application for grant of anticipatory bail qua the present appellants has been dismissed, whereas interim bail to their co-accused has been granted.

Counsel for the applicant-appellants has submitted that the applicant-appellants have been falsely and deliberately implicated in this case by the complainant. He has submitted that the alleged occurrence has taken place on 30.05.2021 whereas the FIR was lodged under Section 323, 148, 149 IPC on 02.06.2021. He submits that thereafter applicant No.2, namely, Kewal Singh, lodged FIR No.48, dated 04.06.2021 against the complainant

Gurpreet Singh. He submits that thereafter in a deliberated manner, after 19 days of the same, statement of mother of the complainant was recorded wherein for the first time the allegations pertaining to the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, 'the Atrocities Act') were levelled only in order to implicate the appellants in the offence under the Atrocities Act. He submits that the appellants have been implicated clandestinely and from the facts and circumstances, it is apparent that prima facie no offence under the Atrocities Act is made out. He further submits that once the allegations are made as an act of vendetta and in a due deliberated manner, the offence under the Atrocities Act is not made out and, therefore, the bar under Section 18 of the Atrocities Act would not be attracted. He has relied upon *Prathvi Raj Chauhan vs Union of India and others* (2020) 4 Supreme Court Cases 727. He further submits that appellants have no criminal antecedents and in view of the above mentioned facts, no case for custodial interrogation is made out, however, they are ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers their request for granting the same.

Issue notice of motion for 08.02.2023.

On the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

In the meanwhile, in the event of arrest, the appellants shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The appellants shall join investigation before the Investigating Agency/Officer. They shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C.:-

“(i) That the appellants shall make themselves available for interrogation by a police officer as and when required to do so;
(ii) That the appellants shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) That the appellants shall not leave India without prior permission of the Court.”

State is directed to file status report on or before the next date of hearing.”

Learned counsel for the appellants would submit that the appellants have joined the investigation and fully cooperated the Investigating Officer. He further undertakes that appellants would continue to join investigation as and when summoned by Investigating Officer.

Learned counsel for the State, on instructions from ASI Gurnam does not dispute the statement made by learned counsel for the appellants and further submits that appellants have joined investigation and their presence, at this stage, is no more required.

In view of the above, the appeal is allowed and the interim bail granted to the appellants vide order dated 30.09.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the appellants or their family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

(JAGMOHAN BANSAL)
JUDGE

08.02.2023
Anjal

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>