

CRA-S-2606-2022

Date of decision: 16.03.2023

VIKASH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Perna Chandna, Advocate for
Mr. Rohit Mittal, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI, J. (ORAL)

On 09.12.2022, the following order was passed:-

“Challenge in the present appeal is to the order dated 10.11.2022 passed by learned Addl. Sessions Judge, Narnaul, whereby application under Section 438 Cr.P.C., filed by the petitioner, in case bearing FIR No.269 dated 02.11.2022, registered at Police Station Nangal Chaudhary, under Sections 323, 452, 504, 506 and 34 IPC and Section 3(1) (L)A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been dismissed. Learned counsel for the appellant contends that the appellant has falsely been implicated in the present case due to election rivalry in the village; that the appellant had never uttered casteist remarks to the complainant; that it is not mentioned in the FIR that the appellant knows the caste of the complainant, and that moreover, co-accused, namely, Sandeep belongs to the Scheduled Caste and, therefore, no case is made out against him and the appellant as well. Notice of motion for 16.03.2023.

Meanwhile, the appellant is directed to join investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police. ”

Learned counsel for the petitioner contends that the occurrence took

place in the house of the complainant and moreover, the petitioner has joined the investigation in pursuance of interim directions.

On instructions from DSP Jitender Kumar, learned State counsel has not disputed the aforesaid factual aspects and has further submitted that the custodial interrogation of the petitioner is not required.

The occurrence had not taken place in a public place and in such circumstances, the bar under Section 18 of the SC/ST (Prevention of Atrocities) Act can be relaxed. Moreover, the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the aforesaid submissions, the order dated 09.12.2022, granting interim bail to the petitioner is made absolute.

The appeal is accordingly disposed of.

16.03.2023

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(VIVEK PURI)
JUDGE

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