

245

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

CRA-S-2657-2022(O&M)

Date of decision : 18.10.2023

Lata Saini

..... Appellant

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Gautam Dutt, Advocate, for the appellant.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Tejinder Pal Singh, Advocate, for the complainant.

PANKAJ JAIN, J. (ORAL)

1. On the last date of hearing i.e. 14.03.2023, following order was passed:-

“The appellant has filed the present appeal for setting aside the impugned order dated 09.12.2022 passed by the learned Additional Sessions Judge, Panchkula whereby anticipatory bail application filed by the appellant in case FIR No. 545 dated 02.12.2022 registered under Section 323 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short-'the Act') at Police Station Sector-7, Panchkula has been dismissed.

Learned counsel for the appellant, inter alia, contends that the appellant has falsely been implicated in the instant case by a student, namely; Reshav S/o Dharmender Singh of Government Senior Secondary School, Sector-7, Panckula where the appellant is posted as Principal. She has never indulged in any kind

of criminal activity. The appellant being head of the institution with all dedications trying to streamline the discipline in the school amongst the students as well as the teachers but the efforts made by her were not considered in the right spirit by some of the teachers and students. The present case is the direct result of instigation by one teacher namely, Bimla, who was offended with the disciplinary action taken by the appellant against her. There are only general allegations against the appellant. Nothing has to be recovered from the appellant and as such her custodial interrogation is not required.

Appellant is ready and willing to join the investigation as and when required by the Investigating Officer.

On the other hand learned counsel for the State assisted by learned counsel for the complainant vehemently opposed the present appeal. Learned counsel for the complainant submits that the complainant has levelled specific allegations against the appellant qua utterance of objectionable words against his caste which was also supported by his fellow students in their statements recorded by the police under Section 161 Cr.P.C.

Adjourned to 20.07.2023.

In the meantime, the appellant is directed to appear before the Investigating Officer within 10 days from today to join the investigation and on her appearance, she shall be released on interim anticipatory bail on her furnishing bail/surety bonds to the satisfaction of Investigating Officer/Arresting Officer. She shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

2. Learned State counsel on instructions from ASI Sunil Kumar Reader to SP (ACB), Panchkula, submits that the appellant has joined the investigation, however, Mr. Tejinder Pal Singh, Advocate, for the complainant has opposed the plea relying upon Section 18 of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SCST Act') to submit that there is a bar.

3. I have heard counsel for the parties and gone through the referred records. The gravamen of complaint against the appellant read as under:-

“Chure Jaisi Shakal Ke Kahan Se Uth Kar Aye Hai”.

4. From the bare perusal thereof, it is evident that the same does not relate to the caste of the appellant. This Court *prima facie* feels that it will be highly doubtful that offence under the SCST Act will be made out or not. Resultantly said bar will not apply.

5. In view of above, the interim order dated 14.03.2023 passed by this Court is made absolute subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as "blanket" order. It will not be read granting appellant indefinite protection from arrest. It shall be confined to the FIR No. 545 dated 02.12.2022 registered under Section 323 IPC and Section 3 of the SCST Act and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the appellant.

8. The appellant shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the appellant in case the occasion arises.
9. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
10. Appeal stands disposed off.

(PANKAJ JAIN)
JUDGE

18.10.2023
VS

Whether speaking/reasoned	Yes/ No
Whether Reportable :	Yes/ No