

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

202

CRA-S-2677-2022 (O&M)

Date of Decision : 12.04.2023

Gulshan

..... Appellant

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Nafeesh Ahmed, Advocate
for the appellant.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

On 16.12.2022, the following order was passed :-

“This appeal has been filed against the impugned order dated 08.12.2022 passed by the learned Sessions Judge, Nuh wherein the anticipatory bail filed by the appellant was rejected.

Learned counsel for the appellant has contended that the appellant before this Court and the complainant, both belong to the Scheduled Caste community and submits that the occurrence in question has taken place on 25.10.2022 whereas the FIR has been lodged after about a delay of 18 days i.e. 13.11.2022 with due deliberations. He has submitted that even from the reading of the allegations, it is apparent that the casteist remark has been uttered by the co-accused and not by the appellant. He submits that the injuries allegedly caused by the appellant were

simple in nature. He has relied upon judgment titled as Prathvi Raj Chauhan Vs. UOI and others, (2020) 4 SCC 727 where the Hon'ble Supreme Court has settled that if no prima facie offence under the Atrocities Act is made out then the bar under Section 18 of the Atrocities Act is not attracted. He has submitted that the appellant has no criminal antecedents and thus, he deserves to be granted anticipatory bail.

Notice of motion.

On asking of the Court, Mr. B.S. Virk, DAG, Haryana accepts notice on behalf of the respondent-State.

List on 12.04.2023.

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

(i) That the appellant shall make himself available for interrogation by a police officer as and when required to do so.

(ii) That the appellant 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 appellant shall not leave India without prior permission of the court. ”

Learned State counsel on instructions from ASI Mahender submits that the appellant has joined investigation and no custodial interrogation is required.

In view of the above, the appeal is allowed and the interim bail granted to the appellant vide order dated 16.12.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the appellant or his 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.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

12.04.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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