

237/4 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3286-2023

Date of Decision: 07.12.2023

Ashwani Kumar

...Appellant

VS.

State of Haryana and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Naveen Sihag, Advocate and
 Mr. R.K.Poonia, Advocate for
 Mr. P.S.Jammu, Advocate
 for the appellant.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Mr. Vivek Dahiya, Advocate
for Mr. Amit Khatkar, Advocate
for respondent No.2-complainant.

N.S.Shekhawat J. (Oral)

1. The appellant has filed the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, Amendment Act, 2015 (hereinafter referred to as the 'Act') for setting aside the impugned order dated 31.10.2023, passed by Additional Sessions Judge, Karnal, whereby the anticipatory bail application filed by the present appellant was ordered to be dismissed in case FIR No.754 dated 28.07.2023, under Sections 148, 149, 323, 452, 506, 120-B of IPC (hereinafter referred to as IPC) and Sections 3(1)(r) 3(1)(s) and 3(2)(va) of the SC and ST (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "SC and ST Act") (Sections 3(1)(r), 3(1)(s) of the SC and ST Act, added later on and Section 3(2) (v) of the

SC and ST Act deleted later on, registered at Police Station Sadar, Karnal, District Karnal.

2. In the present case, while issuing notice of motion on 09.11.2023, learned counsel for the appellant had relied upon the order dated 19.10.2023 in CRA-S-2949-2023 (Annexure A-3) passed by this Court, wherein the following observations were made:-

“The present appeal has been preferred against the impugned order dated 03.10.2023, passed by the Court of Additional Sessions Judge, Karnal, whereby the anticipatory bail application filed by the appellant under Section 438 Cr.P.C in case arising out of FIR No.754 dated 28.07.2023 under Sections 148,149,323,452,506,120-B of IPC and Sections 3(1)(r) 3(1)(s) and 3(2)(va) of the SC and ST (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC and ST Act”) (Sections 3(1)(r), 3(1)(s) of the SC and ST Act, added later on and Section 3(2) (v) of the SC and ST Act deleted later on, registered at Police Station Sadar, Karnal, District Karnal, was ordered to be dismissed.

Reply by way of an affidavit of Deputy Superintendent of Police, Women Safety, Karnal has been filed and the same is taken on record.

Learned counsel for the appellant submits that in the present case, the occurrence had allegedly taken place at about 11:30/11:45 PM on 26.07.2023 in the house of the complainant and was not witnessed by general public. Thus, the offence under Sections 3(1)(r) 3(1)(s) and 3(2)(va) of the SC and ST Act, is not made out against the present appellant. Learned counsel further contends that the offence under Sections 3(1)(r) 3(1)(s) and 3(2)(va) of the SC and ST Act, was added in the present case, just to make the offence nonbailable. He further submits that there is no specific attribution to the present appellant in the present case and has been falsely involved due to an admitted political rivalry

between the complainant side and the accused. Learned counsel further contends that the alleged occurrence had taken place on 26.07.2023 and under the political pressure of the complainant, the FIR in the present case was registered on 28.07.2023. He further contends that with regard to the same occurrence committed on 26.07.2023, the police had also wrongly registered one more FIR No.898 dated 14.09.2023 under Sections 148,149,354A,452 and 506 of IPC registered at Police Station Karnal Sadar and this clearly establishes the fact that the complainant wields political influence in the area. He further contends that the petitioner is ready to appear before the Investigating Officer and is ready to join the investigation.”

3. Learned counsel for the appellant submits that in compliance of the interim order dated 09.11.2023, passed by this Court, the appellant had surrendered before the Investigating Officer and was admitted to interim bail by him. He further contends that no offence under Sections 3(1)(r) 3(1)(s) and 3(2)(va) of the SC and ST Act is made out against the present appellant and his custodial interrogation will not serve any meaningful purpose.

4. On the other hand, learned State counsel submits that the appellant had appeared before the Investigating Officer and had joined the investigation. Even the custody of the appellant is not required at this stage. However, learned counsel for respondent No.2-complainant submits that the appellant had caused injuries to him i.e. Sarpanch of the Village without any reason. He further submits that the present petition was not maintainable.

5. I have heard learned counsel for the parties and perused the record.

6. In compliance of the interim order dated 09.11.2023, the appellant has already appeared before the Investigating Officer and has cooperated during

the course of investigation. Even he has been admitted to interim bail and his custodial interrogation is not required at this stage.

7. Thus, the present petition is allowed and the interim order dated 09.11.2023 is made absolute and the appellant shall continue to join the investigation, as and when called by the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) of the Cr.P.C.

07.12.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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