

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

110+226

**CRA-S-2796-2022 (O&M)
Date of decision: 09.01.2023**

Suresh Chander

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Munish Dev Sharma, Advocate
for the appellant.

Mr. Pawan Kumar Jhanda, AAG, Haryana.

Mr. Johan Kumar, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-513-2023

Prayer in this application is for impleading the complainant namely Parveen S/o Chander Pal, Resident of Village Nai Ka Nangla Khudapur, Sub Tehsil Hassanpur, District Palwal, as respondent No.2 in the appeal.

Learned counsel for the non-applicant/appellant and learned State counsel have no objection if the application is allowed.

Accordingly, the instant application is allowed and complainant Parveen is impleaded as respondent No.2 in the appeal.

Amended memo of parties is taken on record.

CRM-514-2023

For the reasons mentioned in the application, the same is allowed and copy of complaint dated 31.08.2022 given to SHO, P.S.

Hassanpur and application dated 03.09.2022 given to Superintendent of

Police, Palwal and MLR dated 31.08.2022 as well as application given to S.P. Palwal dated 29.12.2022 are taken on record as Annexures R-1 to R-4 subject to all just exceptions.

CRA-S-2796-2022

The appellant has filed the present appeal under the provisions contained in Section 14-a(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act) read with Section 482 of the Cr.P.C., against the impugned order dated 13.12.2022 passed by learned Additional Sessions Judge, Palwal, whereby his application for grant of anticipatory bail in case FIR No.0215 dated 16.09.2022 registered under Sections 323, 34, 342, 452 and 506 IPC and Section 3(2)(va) of the SC/ST Act at Police Station Hassanpur, District Palwal, was dismissed.

Learned counsel appearing for the appellant submits that the appellant has been falsely implicated in the case in hand which is evident from the inordinate delay of almost 18 days in lodging of the FIR in question from the date of alleged occurrence. He submits that even otherwise prima facie no case to attract the mischief of Section 3 of the SC/ST Act is made out as the petitioner was unaware about the caste of the complainant.

Learned State counsel assisted by learned counsel for the complainant while opposing and controverting the submissions made by counsel opposite, submit that the petitioner was a police official who dragged the complainant from his shop to the police station after abusing him in the name of his caste. Not only this, the complainant was physically assaulted by the petitioner not only at his shop but also

after he had been locked up in the police station. Learned counsel submit that the allegations of having been physically assaulted by the accusing including the petitioner found due corroboration from the MLR of the complainant which has been annexed as Annexure P-3. Learned counsel submit that no doubt FIR was not promptly lodged but it was due to the hospitalization of the complainant, however, in the MLR there was a categoric opinion of the doctor dated 31.08.2022 that duration of the injuries sustained by the complainant were beyond 24 hours which in turn coincided with the time of the alleged occurrence. In addition, learned counsel for the complainant has vehemently urged that since the shop of the complainant was in a market, the occurrence in question had taken place in full public view.

Learned counsel appearing for the State as well as the complainant have thus, opposed the prayer made by the petitioner for grant of anticipatory bail as in view of the serious and specific allegations levelled coupled with the fact that there was a bar under Section 18 of the SC/ST Act to extend the concession of anticipatory bail in offences like the one in hand.

I have heard learned counsel and perused the relevant material on record.

Prima facie there are serious and specific allegations levelled against the petitioner who admittedly is a police official of having gone to the shop of the complainant to demand money qua some dispute which had been compromised in the village and since the complainant failed to oblige him, the petitioner along with other co-accused not only indulged in abusive and casteist utterances but also

allegedly subjected the complainant to physical assault at his shop in full view of the public. In the above facts and circumstances, in addition to the bar created under Section 18 of the SC/ST Act, this Court does not deem it fit to extend the concession of anticipatory bail to the petitioner.

Consequently, the instant appeal is dismissed.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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