

(213)

2023:PHHC:064908

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

CRA-S-2790 of 2022

Date of Decision: May 05, 2023

Surinder Pal alias Shinder Pal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. J.S. Warring, Advocate for the appellant.
Mr. G.S. Shergill, AAG, Punjab.
Mr. Kuldip Singh, Advocate for the complainant.

DEEPAK GUPTA, J.(Oral)

Present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the impugned order dated 20.12.2022 vide which the appellant has been denied the concession of anticipatory bail by the Court of Ld. ASJ, Fazilka in case FIR No.96 dated 06.12.2022 registered under Section 3(1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Khui Khera, District Fazilka (Annexure A.1).

No reply has been filed on behalf of the complainant.

Appellant was allowed the benefit of interim anticipatory bail vide order dated 26.12.2022, which is as under:-

“Present appeal has been filed under Section 14-A of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the impugned order dated 20.12.2022 whereby appellant has been denied the concession of anticipatory bail by the Court of learned ASJ, Fazilka in case Fir No. 96 dated 06.12.2022 under Sections 3 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Counsel for the appellants submits that alleged incident took

place on 05.01.2020 and on 06.12.2022 i.e. about to be delayed by three years, present FIR has been registered. Counsel also submits that complainant is in habit to make false complaints and several complaints moved earlier by him were found false by the investigating agency. While arguing that, counsel refers to the report dated 21.08.2020 (Annexure A-2) signed by Senior Superintendent of Police, Fazilka.

Relevant part of said report says as under:

“Above said complaint of Ram Swaroop had already received in this office and reply thereof was sent to the Hon'ble Commission vide letter No.643/CP/FZK dated 23.4.2021 of this office (Reply attached). Complaints of Ram Swaroop were got enquired into through Sh. Bhupinder Singh, Deputy Superintendent of Police (Detective), Fazilka. From his enquiry, allegations of the complainant Ram Swaroop that Surinder Pal used castiest remarks against him and demolished his water course were not substantiated. Enquiry report of Sh. Bhupinder Singh, PPS, Deputy Superintendent of Police (Detective), Fazilka is attached herewith (Annexure A) for kind perusal of the Hon'ble Commission.

Report is hereby submitted for kind consideration of this Hon'ble Commission.

sd/-

Senior Supdt. Of Police
Fazilka”

Counsel further submits that though there is a bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for entertaining the prayer for granting of anticipatory bail, yet considering the observations made in the judgment passed by Hon'ble Apex Court in case '**Prathvi Raj Chauhan v. Union of India (2020) 4 SCC 727**', present petition is

Relevant para 11 says as under:

“11. Concerning the applicability of provisions of Section 438 Cr. P.C., it shall not apply to the cases under the 1989 Act. However, if the complaint does not make out a prima facie case for applicability of the provisions of the 1989 Act, the bar created by Sections 18 and 18-A (I) shall not apply. We have clarified this aspect while deciding the review petitions.”

Notice of motion for 09.02.2023.

On asking of the Court, Mr. J.S. Arora, DAG, Punjab, appears and accepts notice on behalf of respondent-State.

In the meanwhile, in the event of his arrest, appellant shall be released on ad-interim bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. Appellant shall also abide by all the conditions laid down under Section 438(2), Cr.PC.”

Petitioner has since joined the investigation in compliance of the afore-said order dated 26.12.2022. As per the information supplied by learned State Counsel, challan has already been filed. Nothing else is required to be done.

In view of the above, order dated 26.12.2022 is made absolute.

Disposed of.

May 05, 2023
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(DEEPAK GUPTA)
JUDGE

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