

294 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-31-2024
Date of decision: 1st March, 2024

Baljeet Singh @ Baljeet Lovers and another

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arun Sharma, Advocate for the appellant.
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The instant appeal has been preferred by the appellants against the order dated 28.12.2023 passed by the learned Additional Sessions Judge-cum-Vacation Judge, Kaithal in bail application No. 1456 of 2023 titled as ‘Baljeet Singh @ Baljeet Lovers and another Vs. State of Haryana’ arising out of FIR No. 509 dated 25.11.2023 registered under Sections 498A of Indian Penal Code, 1860 (for short ‘IPC’) at Police Station City Kaithal, whereby an application moved by them seeking concession of anticipatory bail had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this appeal are that the above mentioned FIR was registered on the basis of a complaint submitted by the complainant alleging therein that she was

married with the appellant Baljeet Singh in the year 2011. It was a love marriage. Both the appellant and herself belonged to different castes as he is Jaat by caste whereas the complainant belongs to scheduled caste. She is employed as an Accountant in Electricity Department. She alleged that soon after the marriage, appellant No.1 had started torturing her mentally as well as physically on account of demand of car, amount of ₹3,00,000/- and gold and when the complainant had expressed inability of her family to fulfill these demands, then she was physically as well as mentally harassed. She gave birth to a male child in the year 2012 and was kept in the house of her sister-in-law and then at the parental home of appellant No.1 for sometime but the behaviour of both the appellants qua her was not proper and they used to insult her by using words related to her caste. She was constrained to come back to her official residence, wherein also the behaviour of appellant No.1 had remained the same. She alleged that appellants used to insult her by saying that she belongs to a family of shoe maker and could not match their status. She further alleged that in the year 2013, when the marriage of Raj Kumar (elder brother of the appellant No.1) had been fixed and ceremonies were to be held, she was not allowed to even enter into her in-laws house and was again insulted in the name of her caste. The appellant No.2 had openly insulted her in the street by saying a '*Jutti Ghaant eb sona bhalai sai*'. She alleged that the behaviour of appellant No.1 kept on worsening towards her and his demands also connected. Her father had given a sum of ₹ 1,00,000/- to him. All the expenses of the admission of her

child in the school were borne by her father. The appellant No.1 had never contributed in any household expenses of the complainant and rather kept on pressurising her with his demands. She alleged that the appellants used to publicly insult her and her father by uttering caste related words and in the street of their house., they had addressed them as '*Your Julie Gaant, father and yours, we will kill you and will not let you live*'. She alleged that since the appellants were not deterring from their act and conduct, therefore, they were liable to be penalized. After registration of case, investigation proceedings have been initiated. The appellants had moved aforementioned application before the Court of Learned Additional Sessions Judge which was dismissed and aggrieved by the same, the present appeal has been filed by them.

3. It is submitted in the grounds of appeal and argued by learned counsel for the appellants that appellants have been falsely implicated in this case on the basis of vague allegations. The appellant No.2 is *Jeth* (brother-in-law) of the complainant. She had performed love marriage with appellant No.1. There was no demand of dowry from the side of appellants. Infact, the complainant wanted to defame the appellants in society and that is why, she had lodged this case against them. It is argued that no case for commission of any offence punishable under any provision of the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'SC/ST Act') has been made out as against them. The allegations qua demand of dowry are also vague, general and omnibus. Their custodial

interrogation is not required. They are ready to join investigation. No useful purpose would be served by detaining them in custody. Therefore, it is argued that the appeal deserves to be allowed and impugned order as passed by learned Sessions Judge is liable to be set aside and they deserve to be given concession of pre-arrest bail.

4. On the other hand, learned State counsel has argued that there are serious allegations against the appellants. The provisions of Section 3 (1) (x) of SC/ST Act are *prima facie* attracted and therefore, the grant of anticipatory bail is barred under Section 18-A of the Act. With these broad submissions, it is urged that the appeal is not maintainable and the same is liable to be dismissed.

5. The appellants who are husband and brother-in-law respectively of the complainant are alleged to have subjected her to cruelty on account of demand of dowry and are further alleged to have insulted her on the ground that she was belonging to scheduled caste category. A perusal of record reveals that the appellants have also been booked for commission of offence punishable under Section 3(1) (x) of the SC/ST Act. However, on the face of the record no case for commission of offence punishable under this provision has been made out as Section 3(1)(x) of SC/ST Act read as under:-

“Punishment for offences:- [(1)] Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,--

xxx xxx xxxx

xxx xxx xxxx

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within

public view;”

6. However, on perusal of contents of the FIR, a *prima facie* case for commission of offence punishable under Section 3(1) (r) and (s) of the abovesaid Act appears to have been made out as the allegations show that the victim had been intentionally insulted and abused in the name of her caste by the appellants within public view. The fact that the complainant belongs to scheduled caste category is undisputedly within the knowledge of the appellants. As such, the bar created by Sections 18 and 18A (1) of the SC&ST Act applies to this case. The learned Additional Sessions Judge while passing the order dated 10.07.2023 had made observations about the bar so created and as such it cannot be stated that any illegality or irregularity was committed by it while passing the impugned order. In view of the bar of Sections 18 and 18A (1) of the SC&ST Act, the appellant is certainly not entitled to the concession of anticipatory bail. Even otherwise, no sparing and extraordinary circumstance has been made out in this case for extending benefit of pre arrest bail to him. The custodial interrogation which is qualitatively more elicitation oriented than questioning a suspect which is well ensconced with favourable order under Section 438 of Cr.P.C., is certainly required for the purpose of thorough investigation as well as for disinterring useful information required by the investigating agency. As such, I am of the considered opinion that the appeal does not deserve to be allowed. Accordingly, the same is dismissed.

7. However, it is clarified that nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial

would proceed independently of the observations made in this case which are only for the purpose of adjudicating the present appeal against dismissal of anticipatory bail application.

[MANISHA BATRA]
JUDGE

1st March, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No