

2024:PHHC:096992



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

240-2

CRA-S-237-2024 (O&M)
Date of decision: 31.07.2024

Gurmail Singh @ Onkar Singh ...Appellant

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. G. S. Nahel, Advocate
for the appellant.

Mr. A. S. Samra, AAG, Punjab.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 23.11.2023, passed by the learned Additional Sessions Judge, Sangrur, whereby an application filed by him under Section 438 Cr.P.C. for grant of anticipatory bail in case arising out of FFIR No.99 dated 11.09.2023 under Sections 458, 323, 427, 341, 506, 148, 149 of IPC (Section 201 of IPC added later on) and Section 3 (1)(X), 3(1)(R)(S) and 3(2) (V)(VA) of the

SC/ST Act at Police Station Longowal, has been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this appeal are that the aforementioned FIR had been registered on 11.09.2023 on the basis of the statement recorded by the complainant Gurbikar Singh alleging therein that he was sleeping in his house at about 11.00 p.m. on 10.09.2023. He heard some noise in the house of his paternal Surjit Singh. It is further alleged that Amardeep Singh son of Kuldeep Singh and 10/15 unidentified persons had hatched a conspiracy in the house of Kuldeep Singh and they all came outside the house of his uncle. They were armed with sticks and rods and they were also accompanied by 10/15 unidentified persons. They gave blows with their sticks and rods at the outer gate of the house of his uncle and they entered into the house by breaking the gate. They gave slaps and fist blows to the daughter and daughter-in-law of his uncle and also used derogatory words by saying that "sale chure chamaro". One of the blows with rod struck little below the left eye of complainant. Manpreet Singh gave blow with stick at the left jaw of complainant. Then Jagtar Singh, appellant Onkar Singh and Kuldeep Singh also gave blows with sticks on the person of complainant. On raising alarm by the complainant, the assailants fled away from the spot with their respective weapons. After registration of the FIR, investigation proceedings were initiated. Apprehending his arrest, the appellant had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Sangrur but the same had been dismissed, vide order dated 23.11.2023. Hence, he has filed the present appeal challenging the said order.

3. The instant appeal has been filed by the appellant on the grounds and it has been argued by his counsel that the impugned order is not sustainable in the eyes of law as the appellant has been falsely implicated in this case. In fact, the complainant had caused multiple grievous injuries to the minor son of Kuldeep Singh, vide MLR dated 11.09.2023 but no action was taken against the complainant. The complainant had levelled false allegations with regard to using caste related derogatory words against them. The only allegation against the appellant is that he had given blows on the person of the complainant with a stick. He has already joined investigation. No useful purpose would be served by detaining him into custody. Vide order dated 27.05.2024 passed by this Court in CRA-S-330-2024, co-accused Manwinderjeet Singh @ Manpreet Singh @ Mani has already been granted concession of anticipatory bail. With these broad submissions, it is argued that the present appeal deserves to be accepted and the appellant deserves to be given benefit of pre-arrest bail.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the appellant. He along with co-accused had trespassed into the house of the complainant's uncle and had caused injuries to them. However, it is not disputed that the appellant has already joined investigation and he is not required for custodial investigation.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record carefully.

6. The appellant along with co-accused is alleged to have trespassed into the house of the complainant's uncle and is further alleged to have caused injuries to them. He is also alleged to have used caste related derogatory words against the complainant party. The appellant has placed on

record a copy of MLR to show that in fact the complainant had caused multiple grievous injury on the person of the minor son of Kuldeep Singh but no cross case was registered against. Hence, it will be a matter of trial, as to which party was the aggressor party. So far as the allegations regarding using caste related derogatory words against the complainant party are concerned, a perusal of the contents of the FIR shows that it lacks specificity as only a general allegation has been levelled that the accused persons used caste related words and no specific attribution, in this regard, has been made to the appellant. Therefore, no prima facie case for commission of offence under either of the provisions of SC/ST Act can be stated to have been made out, thereby attracting the bar under Section 18 of SC/ST Act. Reliance in this regard can be placed upon ***Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454***, wherein Hon'ble Supreme Court has held that anticipatory bail could be granted if a *prima facie* case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false. Accordingly, it is held in the peculiar facts and circumstances of the case that the appellant deserves to be extended benefit of pre-arrest bail.

7. Accordingly, the present appeal is allowed. The impugned order is set aside. The order dated 08.04.2024¹, granting interim bail to the appellant, is made absolute, subject to the conditions envisaged under Section 438(2) of Cr.P.C. This order shall also be subject to the following conditions:-

- (i) The appellant shall cooperate with the investigation and shall appear before the Investigating Officer as and when required.

- (ii) He 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/her from disclosing such facts to the Court or to any Police Officer.
- (iii) He shall not commit any similar offence while on bail.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

31.07.2024

(MANISHA BATRA)

Waseem Ansari

JUDGE

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