

129 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-400-2024 (O&M)
Date of Decision: 08.04.2024

Anuj Appellant

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Naresh Kumar Ganga, Advocate,
for the appellant.

Mr. Kiran Pal Singh, AAG, Haryana
for respondent No.1.

None for respondent No.2 despite service.

MAHABIR SINGH SINDHU. J.

Present appeal has been preferred under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (for short “the Act”) read with Section 438 of Code of Criminal Procedure for seeking pre-arrest bail in FIR No.243 dated 13.09.2023 registered under Sections 427, 506 and 147 read with Section 149 IPC and Section 3 of the Act, at Police Station, Nathusari Chopta, District Sirsa and for setting aside order dated 24.01.2024 passed by learned Additional Sessions Judge/Special Court, Sirsa declining pre-arrest bail to the appellant.

2. Allegations are that on 10.09.2023, appellant along with co-accused Rahul and Anil, abused son of complainant in the name of his caste and threatened to kill him. Also alleged that accused did not allow the son of complainant to enter the public park and they caused injuries to the complainant as well as his son.

3. Learned counsel for appellant contends that there is delay of 03 days in lodging the FIR and no explanation has been given in this regard. Also

contends that appellant was granted interim bail by this Court on 01.02.2024 and in pursuance thereof, he has joined investigation, therefore, his custodial interrogation would not serve any purpose.

4. Learned State counsel after obtaining instructions from the quarter concerned is not able to dispute the above factual position.

5. Despite service, no one has come forward on behalf of respondent No.2.

6. Heard learned counsel for the parties and perused the paper-book.

7. This Court on 01.02.2024, granted interim bail to appellant and the order reads as under:-

“Contends, inter alia, that after investigation in the matter, Deputy Superintendent of Police, Sirsa, did not find any substance in the matter and moreover, co-accused namely Jagdish with similar allegations has already been granted concession of pre-arrest bail by learned Sessions Judge, Sirsa, on 30.10.2023.

Notice of motion.

Mr. Kiran Pal Singh, AAG, Haryana, accepts notice on behalf of the respondent-State and seeks time to have instructions and/or file written response in the matter.

Notice to respondent No.2 in due course.

In the meanwhile, appellant shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The appellant shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.

Posted for 13.02.2024.”

8. It is not in dispute that in pursuance of the aforesaid order, appellant has joined investigation. Also to be noticed that Police is not asking for his custodial interrogation; nor the complainant has chosen to appear and/or

oppose the prayer of appellant. Thus, in such a scenario, there is no option, except to allow the present appeal.

9. Consequently, appeal is allowed; impugned order dated 24.01.2024 passed by learned Additional Sessions Judge/Special Court, Sirsa is set-aside and the interim order dated 01.02.2024 is made absolute, subject to conditions as envisaged under Section 438(2) Cr.P.C.

10. It is also made clear that appellant shall fully co-operate with the Investigating Officer as and when called for further investigation.

11. The above observations be not construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

12. Pending criminal misc. application(s), if any, shall also stand disposed off.

08.04.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No