

CRA-S-473-2024
Date of decision: 12.03.2024

...APPELLANT

V/S

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

The present appeal has been filed against the order dated 23.01.2024, passed by the learned Special Judge, Kaithal, whereby, the application filed by the appellant seeking anticipatory bail in FIR No.520 dated 03.12.2023 registered under Sections 148, 149, 323, 325, 341, 506 IPC and Sections 3 (1)(r), 3 (1)(s), 3 (2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station City Kaithal has been dismissed.

2. On 05.02.2024, following order was passed:

“xxx...

CRA-S No.473 of 2024

The present appeal has been filed against the order dated 23.01.2024 passed by the learned Special Judge, Kaithal whereby the application filed by the appellant seeking anticipatory bail in FIR No.520 dated 03.12.2023 registered under Sections 148, 149, 323, 325, 341, 506 IPC and Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station City Kaithal has been dismissed.

Learned counsel for the appellant, inter alia,

contends that the case set up by the complainant is absolutely unbelievable. No ingredients of an offence punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and the said sections are added in the FIR only to make the offence non-bailable. Moreover, no injury with the sharp edged weapon was found on the person of complainant and he had received only blunt injuries. It is further contended that the appellant is not involved in any other case.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail to the appellant.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the appellant is directed to appear before the Investigating Officer on or before 13.02.2024 and on his doing so or in the event of arrest, the appellant shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The appellant shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the appellant to join the investigation, the appellant would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the appellant in investigation, in terms of the order of this Court.

Adjourned to 12.03.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

3. Learned State counsel, on instructions from DSP Umed Singh, submits that in compliance of order dated 05.02.2024, passed by this Court, the appellant has joined the investigation and is not required for further custodial

interrogation.

4. Keeping in view the statement made by learned State Counsel the order dated 05.02.2024, is made absolute. The appellant shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
5. The appeal is accordingly allowed.
6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

March 12, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No