



CRA-S-783-2024 (O&M) - 1 -

231 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-783-2024 (O&M)  
DATE OF DECISION : 24.05.2024

RAKESH GOGNA ... APPELLANT

V/S

STATE OF PUNJAB AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mrs. G.K.Mann, Senior Advocate with  
Ms. Simrat Kaur, Advocate for the appellant.

Ms. Sakshi Bakshi, AAG, Punjab with  
ASI Raju.

Mr. V.K.Kaushal, Advocate for respondent No.2.

\* \* \* \*

**HARPREET KAUR JEEWAN, J. (ORAL)**

1. The present appeal has been filed by the appellant assailing the order dated 06.02.2024 passed by the learned Judge, Special Court, Hoshiarpur, whereby anticipatory bail sought by the appellant has been dismissed in G.D.No. 036, dated 03.01.2024, under Sections 323, 326, 354, 354-A, 379 and 452 of the IPC read with Section 34 thereof and Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the 'Act of 1989'), in FIR No. 245, dated 11.10.2021, under Sections 452, 379, 323 and 506 of the IPC read with Section 34 thereof, registered at Police Station Model Town, District Hoshiarpur.

2. Learned Senior Counsel for the appellant inter alia contends that initially DDR No. 25, dated 10.11.2021 was registered under Sections

**CRA-S-783-2024 (O&M)****- 2 -**

326, 354, 354-A, 379 and 452 of the IPC read with Section 34 thereof but later on after a gap of almost two years, offences under Sections 3 and 4 of the Act of 1989 were added, vide G.D.No. 036, dated 03.01.2024.

3. On 26.02.2024 following order was passed:

“xxx Learned Senior Counsel further contends that the present is a case of version and cross-version and Sections 3 and 4 of the Act of 1989 are added only to pressuize the appellant. In the complaint made by the complainant, it is merely written that the appellant has used derogatory language against the caste of the complainant.

4. Reliance has been placed upon the latest judgments of Hon'ble the Supreme Court in Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, and Hitesh Verma vs. State of Uttarakhand reported as 2020 (4) RCR (Criminal) 868, to contend that in such like situation, the bar under Sections 18 and 18-A of the Act of 1989 would not apply. Further reliance has been placed upon judgment of a Coordinate Bench of this Court in Jai Parkash and others Vs. State of Haryana and another, reported as 2011(3) RCR (Criminal) 217, to state that in case, it is not specifically averred in the FIR that the petitioner had knowledge that the complainant belonged to a Scheduled Caste, then the offence would not be made out and the bar under Sections 18 and 18-A of the Act of 1989 would not operate. Reliance has also been placed upon the judgment of Coordinate Bench of this Court in CRM-30576-M-2002 decided on 01.08.2002 titled as “Jagir Chand vs. State of Punjab” as well as in CRM-M-3956-2020 decided on 27.02.2020 titled as “Baljinder Kaur vs. State of Punjab” to contend that if the ingredients of the provisions of the Act are not met with, then the bar under Section 18 of the Act of 1989 cannot come in the way of the petitioner being granted the concession of anticipatory bail.

5. Notice of motion.

6. Having received advance copy of the petition, Ms. Himani Arora, A.A.G., Punjab, accepts notice on behalf of respondent No. 1 and seeks time to file reply.

7. Adjourned to 20.03.2024 for service of respondent No. 2.

8. In the meanwhile, the appellant is directed to join investigation within ten days and in the event of arrest, he shall be released on interim bail, to the satisfaction of the arresting

**CRA-S-783-2024 (O&M)****- 3 -**

officer/Area Magistrate, subject to furnishing bonds/surety, and also subject to the following conditions:-

(i) That the appellant shall further make himself available for interrogation by a police officer as and when required.

(ii) That the appellant 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 from disclosing such facts to the Court or to any police officer.

(iii) That the appellant shall not leave India without the prior permission of the Trial Court/CJM concerned. ”

4. Learned counsel for the appellant reiterated the contentions raised in the order dated 26.02.2024 and further contends that the appellant has joined the investigation in compliance of the order passed by this Court.

5. Learned State counsel has also confirmed that the appellant has joined investigation. State counsel further informs that custodial interrogation of the appellant is not required.

6. Learned counsel for the complainant/respondent No.2 has opposed the present appeal on the ground of gravity of allegations levelled against the appellant.

7. The allegations against the appellant are matter of trial. In view of the reasons recorded in the order dated 26.02.2024 and in view the aforesaid facts, the present appeal is allowed and the order of dismissal of bail application on behalf of the appellant dated 06.02.2024 passed by the learned Judge, Special Court, Hoshiarpur is set aside and order dated 26.02.2024 granting interim bail to the appellant is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

8. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

**CRA-S-783-2024 (O&M)****- 4 -**

9. However, liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the appellant violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

10. All the pending miscellaneous applications, if any, shall stand disposed of.

**24.05.2024**

Janki

**(HARPREET KAUR JEEWAN)  
JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*