

**Sr. No.258(03)****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRA-S-1179-2024****Date of decision: 21st May, 2024****AKASH GUPTA****.....Appellant****versus****STATE OF HARYANA AND ANOTHER****.....Respondents****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Sandeep Kumar, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed by the appellant assailing the order dated 05.03.2024 passed by the learned Additional Sessions Judge, Special Court, Karnal, whereby the bail application filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Code') for grant of anticipatory bail to the appellant in FIR No. 35 dated 13.03.2023, under Sections 376 (2) (n) 452, 420 and 506 of the IPC read with Section 34 thereof and Sections 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989'), registered at Police Station Women, District Karnal, has been dismissed.

2. Learned counsel for the appellant *inter alia* contends that the appellant is the brother-in-law of the first informant and he has been falsely implicated in the present case. The appellant was granted interim bail vide order dated 21.03.2024, which reads as under:-



“xxx xxx xxx xxx

2. *Learned counsel for the appellant inter alia contends that the appellant is the brother of Sonu Gupta with whom the complainant has solemnized the marriage on 07.03.2021 as per the photographs (Annexure A-3). After their marriage there was a matrimonial dispute inter se the brother of the appellant and the complainant as the complainant started smoking and drinking on regular basis. There used to be fights inter se the husband and wife regarding which the appellant has no role to play. Due to the said grudge, the present FIR has been registered.*
3. *He further contends that the appellant belongs to a backward class, therefore provisions of the Act of 1989 are not applicable in the present case. The trial Court has dismissed the bail application merely on the ground of non-maintainability in view of the provisions of Section 18 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further submits that the appellant is ready to join the investigation.*
4. *He also submits that the brother of the appellant-Sonu Gupta, and their mother Isharavati, have also filed appeals before this Court, which are bearing No. CRA-S-293-2024 and CRA-S-776-2024 in which while issuing notice of motion to respondent No. 2, interim protection was also granted by this Bench, vide orders dated 22.02.2024 and 26.02.2024, respectively (Annexures A-5 and A-6).*
5. *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.*
6. *Notice of motion.*
7. *Having received advance copy of the petition, Mr. Amrik Singh Narwal, D.A.G. Haryana, accepts notice on behalf of respondent No. 1 and seeks time to file reply.*
8. *Adjourned to 24.04.2024 for service of respondent No. 2.*
9. *To be heard along with CRA-S-293-2024 and CRA-S-776- 2024.*
10. *In the meanwhile, the appellant is directed to join investigation within ten days and in the event of arrest, she shall be released on interim*



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

(i) That the appellant shall further make herself 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.

xxx xxx xxx xxx”

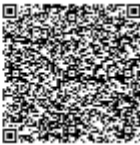
3. Learned counsel for the appellant submits that the appellant has joined the investigation in compliance of the aforesaid order dated 21.03.2024, passed by this Bench.

4. Learned State counsel, on instructions from DSP Vijay Kumar, confirms that the appellant has joined investigation and also contends that his further custodial interrogation is not required.

5. As per office report, notice issued to respondent No.2 has been duly served, however, none has put in appearance on her behalf.

6. In view of the reasons recorded in the order dated 21.03.2024 and keeping in view the fact that the appellant has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present appeal is allowed and the order dated 21.03.2024, granting interim bail to the appellant is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

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



8. 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.

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

(HARPREET KAUR JEEWAN)
JUDGE

21st May, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>