

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRA-S No.1197 of 2024
Date of decision: 15.04.2024

Manu ... Appellant

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Narender Kaajla, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Gursimran S.Bawa, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The instant appeal has been preferred by the appellant against the order dated 26.02.2024 passed by the Court of learned Additional Sessions Judge, Panipat in case arising out of FIR No.99 registered under Sections 195-A, 323, 354, 354-B, 365, 506 and 34 of IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “Act, 1989”) (Sections 120-B and 216 of IPC added later on and Section 195-A of IPC was deleted) at Police Station Israna, District Panipat, thereby dismissing an application for grant of anticipatory bail.
2. Brief facts relevant for the purpose of disposal of this appeal

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are that the aforementioned FIR has been registered on the basis of complaint filed by the respondent No.2-complainant "S" (name withheld) on 21.02.2022 alleging therein that on 20.02.2022 at 8 PM, the present appellant (whose name is mentioned as Munna Malik in the FIR) along with co-accused Sachin, Balraj, Satbir and Navdeep @ Ankush had come to her shop and had forcibly taken her son "R" (name withheld) towards Toll Tax Naultha in a car. They pressurized her son to get a compromise effected in case bearing FIR No.318 of 2021 which was got registered by respondent No.2 at Police Station Israna and otherwise threatened to face dire consequences. Then they pushed her son outside the car while hurling abuses and passing remarks as to his caste. Thereafter, while they were going towards their car to bring sticks to assault her son, he managed to flee and come home. She further alleged that on the next morning while they were making preparation to go to police station to report about the incident and were present in their shop, then the appellant along with the accused Navdeep and others again came to her shop on motorcylces and again pressurized them to get the matter of FIR No.318 compromised and to not to go to High Court on 23.02.2022 wherein the matter of the complainant was pending and threatened to kill her family if she did so. She raised objection and thereafter, the accused Navdeep caught hold of her, touched her inappropriately and hurled abuses in the name of her caste whereas the appellant and Navdeep extended beatings to her son and then they fled from the spot when several persons gathered there. Her son was medically examined and she

prayed for taking action against the culprits.

3. As per the allegations, after registration of FIR, investigation proceedings were initiated. Statements of witnesses were recorded. During investigation, the abovesaid Sachin, Balraj and Satbir were not found to be involved. Offence under Section 195-A of IPC was deleted and offences under Section 216 and 120-B of IPC were added. The accused Satpal was arrested on 22.06.2022. The appellant filed an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Panipat which had been dismissed vide the impugned order by observing that the appellant had been booked for commission of offence punishable under Section 3 of Act, 1989 besides offences under various sections of Indian Penal Code and as such application for grant of anticipatory bail was not maintainable under Section 18 of Act, 1989 and by further observing that no case for grant of anticipatory bail was even otherwise made out.

4. It is argued by learned counsel for the appellant that the impugned order is liable to be set aside as the same is not sustainable in the eyes of law. The allegations in the FIR even if taken to be correct on the face of the record, did not make out any case for commission of any offence punishable under the provisions of Act, 1989. The appellant was not involved in case bearing No.318 of 2021 at all and, therefore, there was no occasion for him to extend any threat to the complainant or her family members or to assault them or to abduct the son of the complainant for the purpose of pressurizing them to effect compromise in

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the abovesaid FIR. It is also argued that the allegations qua commission of offences under Sections 354 and 354-B of IPC have not been levelled against him and the same had been levelled against Navdeep. It is further argued that since no prima facie case for commission of offence punishable under the provisions of Act, 1989 had been made out against him therefore, the bar under Section 18 of this Act, 1989 is also not applicable qua him. To fortify this argument, reliance has been placed by learned counsel for the appellant on authority cited as **Prathvi Raj Chauhan v. Union of India and others**, AIR 2020 Supreme Court 1036. While further submitting that the custodial interrogation of the appellant is not at all required; he is ready to join the investigation and that no useful purpose would be served by detaining him in custody, it is argued that the appeal deserves to be allowed.

5. Per contra, it is argued by learned State counsel assisted by learned counsel for the complainant that the present appellant in furtherance of his common intention with the co-accused, had abducted the son of respondent No.2 on 20.02.2022, had extended threat to effect compromise in case bearing FIR No.318 of 2021 and hurled filthy abuses while passing remarks pertaining to his caste and then on 21.02.2022, he along with the co-accused had again come to the shop of the complainant, the appellant along with the co-accused Navdeep had extended beatings to the son of the complainant and the co-accused Navdeep had tried to outrage the modesty of the complainant while catching hold of her and had also tried to make her sit in his car.

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6. From the above, it is revealed that though the allegations of trying to outrage the modesty of the complainant or of using criminal force with her are not specifically as against the appellant, however, as per these allegations, on 20.02.2022 the present appellant along with the co-accused Navdeep and some other persons (who were not subsequently found to be involved in the occurrence) is alleged to have hurled abuses to the son of the complainant in the name of his caste by saying "Sala Dhanak, kutta and gindal" and hurling other abuses as well. As per these allegations in his presence and in furtherance of their common intention, the co-accused Navdeep had hurled abuses to the complainant on 21.02.2022 by calling her as "Sali Dhanaki, Gindali" and other abuses as well. It is not in dispute that the respondent No.2 belongs to Scheduled Caste. As per Section 3 (1) (x) of Act, 1989, any person not being a member of Scheduled Caste is liable for punishment, if he intentionally insults or intimidates with intent to humiliate a member of Scheduled Caste in any place within public view. The allegations make out a prima facie case to prove that the present appellant along with the co-accused had assaulted the son of the complainant on 20.02.2022 and insulted and intimidated him by hurling abuses in the name of his caste to humiliate him within public view at Toll Tax, Naultha. Though the appellant has placed on record a copy of FIR No.318 of 2021 registered at Police Station Israna to show that he was not named in the said FIR. However, only due to this fact, his complicity in the subject crime cannot be ruled out at this stage.

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7. Further, the allegations also make out a prima facie case for commission of offence under Section 3 (1) (xi) of Act, 1989, on record to show that it was in furtherance of the common intention of the appellant and the co-accused that the co-accused Navdeep had assaulted/used force with the complainant who belongs to Scheduled Caste, with intent to dishonour/outrage her modesty on 21.02.2022. From these allegations, a case for commission of offence under Section 3 (2) (va) has also been made out as the appellant along with the co-accused is alleged to have committed offence specified in Schedule of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. Section 18 of the Act, 1989 provides that nothing in Section 438 of Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed any offence under the Act, 1989. In **Prathvi Raj Chauhan's** case (Supra), the Hon'ble Supreme Court had observed that the scope of Section 18 of the Act, 1989 read with Section 438 of the Cr.P.C. is such that it creates a specific bar in the grant of anticipatory bail. It was held that when an offence is registered against a person under the provisions of the Act, 1989, no Court shall entertain an application for grant of anticipatory bail, unless it prima facie finds that such an offence is not made out. While relying upon the proposition of law as laid down in this authority which has been cited by the appellant himself, it is observed that since the allegations in the FIR make out a prima facie case for commission of offences punishable under different provisions of Section 3 of the Act, 1989, therefore, the learned trial Court had rightly

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observed that the plea of the appellant for grant of anticipatory bail was not maintainable and in my opinion, committed no error in observing that even otherwise, no extraordinary and sparing circumstance had been made out for extending benefit of pre arrest bail to the appellant. As per the discussion made above, it is held that no case has been made out in favour of the appellant, accordingly, the appeal is dismissed.

8. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.04.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No