

228

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1193-2024 (O&M)
Date of Decision: 25.04.2024

HAPPY

.. Appellant

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Davneet Sangwan, Advocate for the appellant.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Vimal Kumar Gupta, Advocate
for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. Apprehending his arrest in FIR No.05 dated 30.01.2024, registered for offences punishable under Sections 376(2)(n), 406, 506 of IPC and 3(1)(w), 3(2)(va) of SC/ST Act at Police Station Women Yamunanagar, District Yamunanagar; the appellant has preferred this appeal under Section 14-A of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeking pre-arrest bail.
2. On 01.04.2024, the following order was passed:

“1. Apprehending his arrest in FIR No.05 dated 30.01.2024, registered for offences punishable under Sections 376(2)(n), 406, 506 of IPC and 3(1)(w), 3(2)(va) of SC/ST Act at Police Station Women Yamunanagar, District Yamunanagar; the appellant has preferred this appeal under Section 14-A of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeking pre-arrest bail.

2. Learned counsel for the appellant, inter alia, contends that the appellant and the victim were in consensual friendship which fell apart later on due to supervening circumstances and the FIR in question is result thereof; a Panchayati compromise

was also entered into between the parties, (copy whereof has been appended as Annexure P-3 with the petition); the appellant is willing to hand over a sum of Rs. 9 lacs in terms of the Panchayati compromise dated 31.12.2023 and in order to show his bona fide, learned counsel for the appellant has prepared a demand draft bearing No.001860 dated 30.03.2024, which the appellant is willing to deposit before the learned CJM Yamunanagar; from the averments made in the FIR & the case set up by the complainant, a case under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 is prima facie not made out; the FIR in question is actually laced with mala fide & the appellant is willing to join investigation & cooperate therein.

3. Pursuant to the notice of motion, Ms. Ankita Ahuja, AAG, Haryana has appeared on behalf of respondent No.1 & Mr. Namit Khurana, Advocate has appeared on behalf of respondent No.2.

4. Adjourned to 25.04.2024.

5. The appellant is directed to appear before the Investigating Officer on 05.04.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the appellant shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the appellant shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.

6. A copy of the aforesaid demand draft be kept on record for future reference.”

3. Learned State counsel on instructions from ASI Amit Kumar, has stated that pursuant to the order dated 01.04.2024, the appellant has joined investigation and is no longer required for custodial interrogation.

Learned counsel for the complainant has vehemently opposed the grant of anticipatory bail on the ground that the allegations made against the appellant are serious in nature & hence he ought not to be granted the concession of pre arrest bail.

4. As requested for by the learned counsel for the complainant; the CJM, Yamuna Nagar is directed to release the demand draft bearing No.001860 dated 30.03.2024 for Rs.9 lacs submitted by the appellant (herein) with the said Court to respondent No.2 (herein) on due

identification.

5.

In view of above, the appeal is allowed and interim order dated 01.04.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
6.

This order should not be treated as “blanket” order. It will not be interpreted as granting appellant indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
7.

Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the appellant violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8.

Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
9.

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

25.04.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No

Yes

No