

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1016-2022

Date of Decision : **25.01.2024**

NETRA PAL

.....Appellant

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vivek K. Thakur, Advocate,
for the appellant.

Mr. Yuvraj Shandilya, AAG, Haryana.

Mr. S.K.Verma, Advocate,
for the complainant.

KULDEEP TIWARI. J.(Oral)

1. On 01.06.2022, the following order was passed a co-ordinate

Bench of this Court, staying the arrest of the petitioner:-

“Learned counsel for the petitioner has submitted that a bare perusal of the FIR would show that allegedly the petitioner had used derogatory language regarding the caste of the complainant on telephone and the present FIR has been registered under Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further submitted that the provisions of Clause (x) of Section 3(1) of the SC & ST Act applies only when the said derogatory language or such an offence is committed within public view and since it was a case of one to one phone, the provisions of Section Section 3(1) (x) of the SC & ST Act was not attracted on the face it. He further submitted that when the petitioner filed an application for anticipatory bail before the learned Special Judge, the same has been declined on the ground that the petition for anticipatory bail was not maintainable in view of the bar contained under Section 18 and 18A of the SC & ST Act. Learned counsel has relied upon a judgment of the Supreme Court in Prathvi Raj Versus Union of India [AIR 2020 SC 1036] to contend that as per the law laid down by the Hon'ble Supreme Court there is no absolute bar under Section 18 and 18A of the SC & ST Act and in case on the face of it, it can be seen that the basic ingredients are not fulfilled and the offence is not committed, then in view of facts and circumstances bail can be granted and, therefore, learned Special Court has not considered the legal position properly.

Notice of motion.

Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana accepts notice on behalf of the State of Haryana

and prays for some time to file reply.

Adjourned to 20.07.2022.

Till the next date of hearing, the arrest of the petitioner shall remain stayed.”

2. Learned State counsel and learned counsel for the complainant submit that they do not have any objection to the appellant being granted the relief of interim bail, if he regularly keeps joining the investigation and co-operates with the investigating officer.

3. Keeping in view the above, this Court deems it appropriate to **set aside** the order dated 25.05.2022, passed by the learned trial Court concerned, declining anticipatory bail to the appellant, and appellant is directed to join the investigation, and on his doing so, the appellant be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of trial court/Arresting/Investigating Officer. However, the appellant shall continue to join the investigation as and when called upon to do so, and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

4. In case, the appellant does not co-operate and join the investigation as directed by this Court, the State is at liberty to file application seeking cancellation of his interim bail.

5. Disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

January 25, 2024
dharamvir

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No