



CRA-S-1915-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-1915-2024
Date of decision: 22.08.2024

KAUSHALYA DEVI
....Appellant

Versus

STATE OF HARYANA AND ANR.
....Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Amarsh Dudeja, Advocate for the appellant.
Mr. Ramender Singh Chauhan, AAG, Haryana.
None for the complainant-respondent No.2
.....

SANJIV BERRY, J. (ORAL)

By way of present appeal preferred under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Attrocities) Act 1989 (Amended 2018) read with Section 482 Cr.P.C., appellant has assailed the impugned order dated 26.04.2024, passed by learned Additional Sessions Judge, Panchkula, whereby the anticipatory bail filed by the appellant had been dismissed in case FIR as under: -

FIR No.	Dated	Sections	Police Station
0084	26.02.2024	323, 325, 341, 506 and 34 IPC and 3(1)(x) of SC/ST (Prevention of Atrocities) Act	Chandimandir, District Panchkula

2. Learned counsel for the appellant submits that in compliance to the order dated 15.05.2024, the appellant has already put in appearance



before the Investigating Officer of the case on 27.05.2024 and furnished the requisite bail/surety bonds.

3. During the course of hearing on 15.05.2024, following order had been passed: -

“The present appeal(s) has been filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 482 of the Code of criminal Procedure, 1973 for grant of anticipatory bail to the appellant(s) in case FIR No.0084 dated 26.02.2024, under Sections 323, 325, 341, 506 and 34 of IPC and 3(1) (s) of SC/ST (Prevention of Atrocities) Act, registered at Police Station Chandimandir, District Panchkula.

Learned counsel for the appellant(s), at the outset, submits that all the Sections under IPC are bailable and the complainant with a mala fide intention has lodged the FIR, however, the authorities have wrongly invoked Section 3(1) (s) of SC/ST (Prevention of Atrocities) Act without any credible allegations. Counsel for the appellant(s) submits that there is no independent witness to corroborate the fact as to if any caste remark was made in the public to demean the complainant and the correct position is that the appellant(s) had lodged a complaint with the authorities much prior in time as one Jai Parkash Narain and the complainant Vicky have been trying to encroach upon their land being co-owners in the same Khasra.

Notice of motion.

Mr. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of the State and has vehemently opposed for grant of any concession to the appellant(s) on the ground that there are specific allegations against the appellant(s) of abusing and making casteist remarks of which Jai Parkash Narain is a witness and, hence, the ingredients of Section 3(1) (s) of SC/ST (Prevention of Atrocities) Act are duly fulfilled. Learned counsel for the appellant(s) has reiterated that, in fact, the complainant was working as a mason on the property of the appellant(s) and the present FIR is only at the instance of Jai Parkash Narain



which has been filed just to take revenge against the complaint filed by the appellant.

Learned State counsel has pointed out that the medical of the victim demonstrates that he had suffered three fractures and, hence, the said incident in all probability must have taken place.

*Heard learned counsel for the parties. There is no averment in the FIR that the appellant(s) by her conduct outraged the sensibilities of the complainant in relation to the caste that he belonged to. The Hon'ble Supreme Court in the case of **"Prathvi Raj Chauhan vs Union Of India"**, AIR 2020 Supreme Court 1036, held that if the allegations do not make out a prima facie case for applicability of the provisions of the SC/ST Act, 1989, the bar created by section 18 and 18A (i) of the same Act shall not apply, therefore, Section 438 Cr.P.C. can be invoked in appropriate cases to prevent miscarriage of justice.*

*In light of the aforesaid discussion, the appellant(s) is directed to join investigation on **24.05.2024** at **10:00A.M.** before the Investigating Officer and cooperate with the Investigating Agency even thereafter.*

In the event of arrest, the appellant(s) be released on interimbail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the appellant(s) shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

*Adjourned to **11.07.2024**.*

However, it is made clear that this order shall not be construed as parity qua any other co-accused.

A copy of this order be placed on the file of another connected case."

4. Learned State counsel, on instructions received from Inspector Prithvi Singh, has not disputed this aspect.

5. None has put in appearance on behalf of the complainant-respondent No.2 to contest the present appeal despite specific notice sent by the Registry of this Court.



6. Keeping in view the above submissions made by learned State counsel and the fact that the appellant had already put in appearance before the Investigating Officer of the case on 27.05.2024 and furnished the requisite bail/surety bonds consequent to the order dated 15.05.2024 passed by this Court, interim bail granted vide order dated 15.05.2024 is hereby confirmed, subject to conditions as envisaged under Section 482(2) of BNSS. Further the appellant is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the appellant; she will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

7. With these observations, impugned order dated 26.04.2024, passed by learned Additional Sessions Judge, Panchkula is set aside and the instant appeal stands allowed.

22.08.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |