

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1963-2024

DECIDED ON: 20.05.2024

GURSEWAK SINGH AND ANOTHER

.....APPELLANTS

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Choudhary, Advocate and
Mr. Himanshu Setia, Advocate
for the appellants.

SANDEEP MOUDGIL, J (ORAL)

The present appeal has been preferred under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 after being aggrieved by the impugned order dated 10.05.2024 passed by Additional Sessions Judge, Fatehabad vide which anticipatory bail of the appellants stood dismissed.

Learned counsel for the appellants prays for withdrawal of the instant appeal qua appellant No.1 Gursewak Singh, who has been arrested on 13.05.2024.

Prayer is accepted.

The instant petition is permitted to be withdrawn only qua appellant No.1 namely Gursewak Singh son of Nayab Singh, resident of village Bhodiakhara, Tehsil Tohana, District Fatehabad (Haryana).

Learned counsel for the appellants contends that there is a delay of 07 days in lodging the instant FIR as the alleged occurrence took place on 27.02.2024 at 06:15 p.m. whereas the instant FIR was registered on

04.03.2024, under Sections 148, 149, 323, 325, 341, 506 IPC along with Section 3(1)(s) of SC/ST Act. He asserts that since all other offences are bailable in nature, offence under SC/ST Act has been intentionally incorporated in the instant FIR having no iota of truth in it and no evidence whatsoever qua the said fact is available with the prosecution. He further submits that the injuries referred in the medico legal report have not been specifically attributed to appellant No.2, as is evident from narrated facts unfolded in the FIR itself.

Notice of motion.

On the asking of the Court, Mr. B.S. Virk, Sr. DAG, Haryana accepts notice on behalf of the respondent-State and seeks dismissal of the instant appeal submitting that the nature in which the occurrence has taken place is detrimental to the law and order of the State and according to the Medico Legal Report, five injuries have been noted and Section 325 IPC has been added after obtaining the medico legal opinion and on that account, appellant No.2 does not deserve the concession of anticipatory bail.

Having heard learned counsel for the parties and on perusal of the pleadings before this Court, there is no iota of any material before this Court which could make out a case under Section 3(1)(s) of SC/ST Act as there is no such specific allegation of aspersion of any abusive words invoking the said offence.

When this Court countered the learned State counsel, he could not further ascertain that which injury is specifically attributed to appellant No.2 and, therefore, the prosecution story as well as role of the complainant raises serious suspicion in the mind of this Court qua the role of the

petitioner as attributed to him in the occurrence particularly in the light of delay in lodging the FIR i.e. 7 days.

Hence, appellant No.2-Pardeep Singh is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. Appellant No.2 shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C.

However, it is made clear that in case appellant No.2 does not join the investigation and cooperate with the investigating officer, the respondent/State shall be at liberty to move an appropriate application for revival of the instant appeal.

The instant appeal in the aforesaid terms stands disposed off.

20.05.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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