IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1976-2024
Reserved on: 02.08.2024
Pronounced on: 30.08.2024

Harpreet Kaur ...Appellant

Versus

State of Haryana and others …Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. K.D.S. Hooda, Advocate
for the appellant.

Mr. Aashish Bishnoi, D.A.G., Haryana.

Mr. Vicky Sharma, Advocate
for respondent No.4.

****

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0206	23.04.2024	Thanesar Sadar, District Kurukshetra	509 IPC and 3 of SC& ST (Prevention of Atrocities) Amendment Act, 2015

1. Aggrieved by the dismissal of his bail under Section 438 CrPC, 1973 for the offenses including under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, [SCSTPOA], the accused has come up before this court by filing an appeal under section 14-A of SCSTPOA, seeking bail.

2. In the appeal, the appellant is silent about criminal antecedents.

3. Facts of the case are being taken from affidavit dated 01.08.2024 filed by concerned DySP which reads as follows:-

> *"2. That the main allegations against the petitioner/ accused are that she had assured to the complainant of the present case that she will be provided job to Rajdeep Singh son of complainant in Martyrdom Memorial Ambala and for that petitioner/ accused has put demand of an amount of Rs.8 Lakh. The complainant as per direction of petitioner/ accused has transferred an amount of Rs.5 Lakh in the account of petitioner/ accused through RTGS on 18.10.2023 and remaining amount of Rs.3 lakh was given in cash by the complainant of the present case to petitioner/ accused. The copy bank account statement of*

> *complainant is enclosed herewith as Annexure R-1 for kind perusal of this Hon'ble Court.*
>
> *3. That the petitioner/ accused had illegally put demand of Rs.8,00,000/- for arranging job for son of complainant, namely Rajdeep and received an amount of Rs. Rs.5,00,000/- out of above said amount of Rs.8 Lakh, through RTGS on 18.10.2023 and remaining amount of Rs.3 Lakh was received by the petitioner/ accused in cash from the complainant of the present case, but the accused could not arrange any job for son of complainant and when the complainant went to ask for her money, she was insulted by using caste related words and total amount of Rs.8,00,000/- have been duped by the accused, hence petition is liable to be dismissed.*
>
> *4. That during investigation of the present case the fact came on record that complainant of the present case has transferred an amount of Rs.5 Lakh in the account of petitioner/ accused through RTGS and an amount of Rs.3 Lakh was received in cash."*

4. The Appellant's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the Appellant and their family.

5. The State opposes bail.

6. Petitioner seeks bail on the ground that he and complainant are having family and business relationship and the amount which was transferred in the bank was a part of the business transaction and has supplied that after transfer of amount of RTGS on 18.10.2023, 15.11.2023, 13.11.2023 and 06.12.2023 she had deposited Rs.1,87,000/- by cash in her bank account No.110106992659. In addition to that, she has made UPI payment of Rs.21,500/-. She submits that remaining money was paid by cash and whatever money is still outstanding, they undertake to clear the same within one month and if they fail to do so, then they undertake to do it as early as possible but not later than 30.09.2024.

7. State counsel opposes the petition and submits that as per investigation Rs.5 lacs was found transferred and there is evidence which were taken for giving the job. The complainant also submits that they had befooled the complainant to get his son a job in Martyrdom Memorial, Ambala.

8. An analysis of the above arguments would lead to the following outcome. Complainant had been in business dealings and if she had paid money to procure job through illegal means now she is dis-entitled to claim that she was cheated for the reason that she herself was cheating the system and the society by procuring a job by fraudulent means but simply because the complainant is not truthful would not be a ground for the accused to get bail. Thus, this Court is not considering it as a factor. On the face of it,

appellant’s case is of business transaction. Further the transfer of money in the bank account would somewhat corroborate the allegation coupled with the fact that the appellant’s counsel has undertaken that they have already paid money as mentioned above and whatever is still outstanding, they will undertake to pay the same.

9. In Prathvi Raj v. Union of India, 2020:INSC:157 [Para 10], AIR 2020 SC 1036, a three-judge bench of the Hon’ble Supreme Court read down S. 18 by declaring as follows,

> [10]. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

10. The allegations are abusing the people belonging to the scheduled castes by using derogatory words prohibited under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCSTPOA).

11. Given the penal provisions invoked coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the Appellant makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

12. Given above, provided the Appellant is not required in any other case, the Appellant shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the Appellant shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the Appellant’s complying with the following terms. The Appellant shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellant shall not tamper with the evidence, influence,

browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

17. Appeal allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.