

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

265

2024:PHHC:030512
CRA-S-1560-2023
Date of decision: March 4th, 2024

Sumitra Devi and others

.....Appellants

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Athwal, Advocate
for the appellants.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana.

Mr. Kuldeep Singh Siwach, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

The appellants are impugning order dated 19.05.2023 passed by learned Additional Sessions Judge, Fatehabad, vide which their application for grant of anticipatory bail in case FIR No.180 dated 30.07.2020 under Sections 148, 149, 323, 341, 506 of the IPC and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar Ratia, District Fatehabad, was dismissed.

2. While issuing notice of motion on 05.06.2023, following submissions of learned counsel for the appellants were recorded:-

“Learned counsel submits that as per the allegations levelled in the FIR, occurrence in question had taken place not in public view but inside the house of the appellants. He further submits that it is a matter of record that a case stood registered against the

complainant at the instance of the appellants which was prior in time and it is thus for reasons but obvious that a false and fabricated case had been planted upon the appellants.”

3. Thereafter, vide order dated 18.10.2023, the appellants had been granted interim anticipatory bail with direction to join investigation.

4. Learned counsel for the appellants submits that in compliance of order dated 18.10.2023, the appellants have joined investigation and cooperated with the investigating agency.

5. Learned State counsel, on instructions, does not dispute the factum of the appellants having joined investigation and cooperated with the investigating agency. He on further instructions submits that the appellants are not required for further investigation much less for their custodial interrogation.

6. Learned counsel for the complainant has, however, opposed the prayer and submissions made by the counsel for the appellants by challenging the maintainability of the appeal filed by him. He has submitted that as per Section 14 (A) (1) of the SC/ST Act, an appeal would lie before this Court only against an order of the Special Court or Exclusive Special Court, however, in the instant case, the impugned order had been passed by the learned Additional Sessions Judge, Fatehabad, and not by any Special Court. Thus, the appeal filed by the appellants was liable to be dismissed.

7. Learned counsel for the appellants has submitted that vide Notification dated 30.01.1990, the Government of Haryana had designated the senior-most Additional Sessions Judge of each

Act. Pursuant to the said Notification, the Court, which passed the impugned order was empowered to pass the impugned order and thus, in the circumstances, the appeal was maintainable.

8. Learned State counsel has not disputed the submissions made by the counsel for the appellants qua the Notification dated 30.01.1990 having been issued by the Government of Haryana and the factum of the senior-most learned Additional Sessions Judge of every District Headquarter/Sessions Division being empowered as a Special Court to decide cases for offences under the SC/ST Act.

9. In view of the above, the petition is allowed and interim order dated 18.10.2023 is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

March 4th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No