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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRA-S-2062-2024 (O&M)  
Date of decision: 03.07.2024

Anil Kumar ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manvinder Singh Dalal, Advocate  
for the appellante.

Mr. Neeraj Poswal, AAG, Haryana.

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MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 22.08.2023, passed by the learned Additional Sessions Judge, Sirsa, whereby an application filed by him under Section 438 Cr.P.C. for grant of anticipatory bail in case arising out of FIR No. 227 dated 10.10.2023, under Sections 148, 149, 323, 506, 120-B of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s), 3/2(VA) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 and Section 25 of the Arms Act, 1959, registered at Police Station Rajound, District Kaithal, had been dismissed.
2. Brief facts of the case relevant for the purpose of disposal of

this appeal are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant alleging therein that on 08.10.2023 at about 10:00 PM, he received a call from one Lakhan, who used derogatory and castiest remarks against him and threatened to kidnap his sister. Thereafter, on 10.10.2023, when the complainant was standing at the Bus Stand of his village, one Manjeet, who was also standing there, raised lalkara that he should be taught a lesson. In the meantime, Ashu, Lakhan and Amit, armed with weapons like gandasi and danda, came there on two motorcycles. Lakhan gave a gandasi blow on the right arm of the complainant and other co-accused also inflicted injuries on the person of the complainant with their respective weapons. When the complainant raised hue and cry, they fled away from the spot with their respective weapons, while extending threat to the complainant to kill him. After registering the FIR, investigation proceedings have been initiated and the same are underway. The appellant had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Kaithal but the same had been dismissed, vide order dated 06.05.2024.

3. Learned counsel for the appellant has argued that the impugned order is not sustainable in the eyes of law as the same has been passed on false and frivolous allegations. The appellant was not present at the spot. He was not even named in the FIR. He was nominated in this case on the basis of disclosure made by the co-accused. The custodial interrogation of the appellant is not required. No recovery is to be effected from him. He is ready to join the investigation as and when required by the Police. Learned trial Court erred in holding that the application was not maintainable in view of the bar created under Section 18 and 18-A of the SC/ST Act as these

provisions were not applicable in the peculiar facts and circumstances of the case. With these broad submissions, he has submitted that the appeal deserves to be allowed and the appellant deserves to be extended benefit of anticipatory bail.

4. *Per contra*, learned State counsel has argued that although the appellant is not named in the FIR and has been nominated in the case on the basis of the disclosure of co-accused but there are allegations against him that he has conspired with the co-accused against the complainant for commission of subject offences. Therefore, a *prima facie* case for commission of offences under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC and ST Act had been made out. It is further urged that learned Additional Sessions Judge had rightly held that the application was not maintainable and therefore, it is argued that the appeal does not deserve to be allowed.

5. I have heard learned counsel for the appellant and learned State counsel at a considerable length and have perused the record.

6. Vide order dated 27.05.2024, passed by this Court, the appellant was released on interim bail and was directed to join investigation. The appellant was admittedly nominated in this case on the basis of the disclosure made by the co-accused as he was not named in the FIR. He is on interim bail and there is no complaint that he has misused the same in any manner. So far as the allegations of the case falling within the ambit of Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST Act are concerned, these provisions of Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST Act say that any person who intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view or abuses any member of a Scheduled Caste or a Scheduled

Tribe by caste name in any place within public view shall be liable to be punished under this provision of SC/ST Act. Therefore, the soul of the provision is intention. The insult should be intentional and the intimidation should be with intent to humiliate a member of the Scheduled Caste or Scheduled Tribe. However, there is no such allegation against the appellant that he has made any caste related remarks against the complainant attracting the provisions of SC/ST Act. Therefore, no *prima facie* case for commission of offence punishable under these provisions can be stated to have been made out, thereby attracting the bar under Section 18 of SC/ST Act. Reliance in this regard can be placed upon ***Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454***, wherein Hon'ble Supreme Court has held that anticipatory bail could be granted if a *prima facie* case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false. Accordingly, it is held in the peculiar facts and circumstances of the case that the appellant deserves to be extended benefit of pre-arrest bail.

7. Accordingly, the present appeal is allowed. The impugned order is set aside. The order dated 27.05.2024, granting interim bail to the petitioner, is made absolute, subject to the conditions envisaged under Section 438(2) of Cr.P.C. This order shall also be subject to the following conditions:-

- (i) The appellant shall cooperate with the investigation and shall appear before the Investigating Officer as and when required.
- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts

to the Court or to any Police Officer.

(iii) He shall not commit any similar offence while on bail.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

03.07.2024  
*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

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|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>Yes</i> |