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CRA-S-1601-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-1601-2023

Date of decision: 08.08.2024

ANURAG MAHAJAN

....Petitioner

Versus

STATE OF PUNJAB AND ANR

....Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Japjot Singh, AAG Punjab.

None for respondent No.2.

.....

SANJIV BERRY, J. (ORAL)

None has appeared on behalf of respondent No.2 despite being
duly served as is evident from the order dated 21.03.2024.

2. By way of instant appeal, the appellant has assailed the
impugned order dated 25.05.2023, passed by learned Additional Sessions
Judge, Amritsar in case FIR No.33 dated 27.02.2020 registered under
Sections 304-A IPC, 3(1)(j) of the Scheduled Castes & Scheduled Tribes
(Prevention of Atrocities) Act 1989 registered at Police Station Majitha
Road, District Amritsar, vide which the anticipatory bail of the appellant
filed under Section 438 Cr.PC had been dismissed.

3. Heard.

4. Learned counsel for the appellant contends that appellant is
innocent and has been falsely implicated in this case. He contends that vide

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order dated 31.05.2023, the appellant had been directed to join investigation and granted interim bail. He submits that in pursuance to the aforesaid order, the appellant has joined the investigation.

5. Learned State counsel, on instructions from S.I. Gurinder Singh intimates the Court that the appellant has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

6. During the course of hearing on 31.05.2023, following order was passed: -

“ Present appeal has been filed by the appellant under Section 14 of SC/ST Act against order dated 25.5.2023 passed by the Court of Additional Sessions Judge, Amritsar whereby the application moved by the appellant under Section 438 of Cr.P.C. for grant of anticipatory bail to the appellant in criminal case having FIR No.33 dated 27.2.2020 registered under Sections 304-A IPC, Section 3(1)(j) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at Police Station Majitha Road, District Amritsar, is dismissed.

Brief facts of the case are that complainant-Gurmeet Kaur lodged FIR against the present petitioner and other officials of Municipal Corporation, Amritsar alleging that her husband-Jagir Singh was working as a sewer man and he was asked clean sewerage system by entering into the sewerage by the officials of Municipal Corporation, Amritsar including the petitioner who at that time was working as Superintending Engineer in the said Corporation; that when Jagir Singh entered the



sewerage system, he was exposed to poisonous gases, as a result of which, he died. It is also mentioned in the FIR that Jagir Singh was not provided proper kit and gas mask before he entered the sewerage system and as such, all the officials of Municipal Corporation, Amritsar including the petitioner are responsible for the death of Jagir Singh who belongs to a scheduled caste.

Counsel for the appellant inter alia contends that no doubt, the appellant was serving as Superintending Engineer in Municipal Corporation, Amritsar at the relevant time but he has been falsely implicated in the present case and there was no written directions on behalf of the appellant to any of the sewer man to clean sewer by entering in it. He further submits that it is a debatable issue as to whether any offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and further, offence under Section 304A IPC is made out against the appellant. He further contends that even otherwise, offence under Section 304A IPC is a bailable offence and that the appellant is ready to join the investigation with the police.

Notice of motion.

Mr. C.L. Pawar, Addl. AG, Punjab accepts notice on behalf of the State and on instructions from ASI Bharat Bhushan submits that Jagir Singh died due to negligence on the part of the officials of Municipal Corporation, Amritsar including that of the appellant as no proper kit was provided to Jagir Singh sewer man before he was asked to enter into sewerage for its cleaning. State counsel further submits that the



appellant is required by the police for proper investigation of the case.

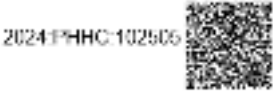
Apparently, case of the prosecution is that Jagir Singh who was working as sewer man was asked to clean sewerage system by entering in it but he was not provided proper gas mask and sewerage kit and as such, he was exposed to poisonous gases when he tried to enter the sewerage system by opening the lid of the manhole and died at the spot. Admittedly, offence under Section 304A IPC is a bailable offence. However, it is a debatable point as to whether any offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is also made out in this case.

Now be listed on 22.8.2023.

In light of above, the appellant is hereby directed to join the investigation with the police and in case of arrest, he is to be released on interim bail by the investigating officer/arresting officer to his own satisfaction till the next date fixed in this case. The appellant is also to abide by the conditions envisaged under Section 438 (2) of Cr.P.C.”

7. After considering the rival contentions and perusing the record, it transpires that the appellant has been implicated in the instant FIR for having committed offence punishable under Sections 304-A IPC, 3(1)(j) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. At the same time, it is not disputed that the appellant, after having been directed vide order dated 31.05.2023, has joined the investigation. As per learned State counsel, he is not required for further

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be the case, the interim bail granted to the appellant vide order dated 31.05.2023 is hereby confirmed subject to the conditions as envisaged under Section 438(2) Cr.P.C. The appellant is directed to join investigation as and when required in future also by way of a written notice for such purpose to be served by Investigating Officer of this case; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

8. With these observations, the impugned order dated 25.05.2023, passed by learned Additional Sessions Judge, Amritsar, is set aside and the instant appeal stands allowed.

08.08.2024
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(SANJIV BERRY)
JUDGE

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