

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

265/2

2024:PHHC:030608
CRA-S-1727-2023
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)

Appellants are impugning the order dated 06.06.2023 passed by learned Additional Sessions Judge, Fatehabad, vide which their application for grant of anticipatory bail in case FIR No.5 dated 10.01.2023 under Sections 3 of the Prevention of Damage to Public Property Act (Sections 3(1)(g)/3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on) registered at Police Station Sadar Ratia, District Fatehabad, was dismissed.

2. Vide order dated 18.10.2023, the appellants had been granted interim anticipatory bail with direction to join investigation and the relevant part of the said order reads as under:-

*“While drawing the attention of this Court to the
FIR (Annexure A-1) learned counsel submits that a
bare perusal of the same indicates that there is no*

mention much less any allegation qua the appellants having uttered any derogatory words, and therefore, no offence under SC/ST Act is made out. Learned counsel further submits that it is a matter of record that prior to the lodging of the instant FIR, a case stood registered against Bheera Singh, on whose application the instant FIR had been lodged by the SDO and it is thus, for reasons but obvious that as a counter-blast to the above case, a false and fabricated case had been planted upon the appellants. Learned counsel for the appellants submits that the appellants are ready to join investigation and cooperate with the investigating agency.”

3. 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.

4. 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.

5. 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.

6. 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 District Headquarter as a Special Court to try offences under the SC/ST 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.

7. 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.

8. 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