



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

290

CRA-S-2234-2024 (O&M)
Date of Decision:- 29.08.2024

SUGRIV ALIAS KALU

....Appellant(s)

Versus

STATE OF HARYANA AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Jainainder Saini, Advocate for the appellant.

Mr. Ramender Singh Chauhan, AAG Haryana.

SANJIV BERRY, J. (ORAL)

1. By way of instant appeal, the appellant has assailed the impugned order dated 01.06.2024, passed by learned Additional Sessions Judge, Hisar, whereby the application filed by the appellant under Section 438 CrPC for grant of anticipatory bail was dismissed in case FIR No.147 dated 13.05.2024 under Sections 323, 325, 506 IPC and Sections 3(i)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act 1989 registered at Police Station Adampur, District Hisar.
2. Learned counsel for the appellant contends that appellant is innocent and has been falsely implicated in this case. He contends that vide order dated 05.06.2024, 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 on 27.06.2024.
3. Learned State counsel, on instructions from ASI Amit Kumar



intimates the Court that the appellant has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

4. As per office report, respondent No.2 has been duly served, however, none has put in appearance on behalf of respondent No.2.

5. Heard.

6. During the course of hearing on 05.06.2024, following order was passed: -

“2. Learned counsel appearing for the appellant has submitted that the appellant is innocent and has been falsely implicated in the case. It is submitted that no such occurrence, as alleged in the FIR, had taken place and there is an un-explained delay of two days in lodging the FIR, therefore, FIR is a result of due deliberations.

2.1 While referring to the FIR, learned counsel for the appellant has submitted that no offence punishable under Section 3 of the Scheduled Castes and Scheduled Tribes is made out against the appellant. It is submitted that it is nowhere mentioned in the FIR that the appellant had knowledge that the complainant belonged to Scheduled Caste community. Reliance has been placed upon the judgment of Hon'ble Supreme Court in Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, to contend that in such like situation, the bar under Sections 18 and 18-A of the SC/ST Act would not apply.

2.2 Further reliance has been placed upon judgment of this Court in Jai Parkash and others Vs. State of Haryana and another, reported as 2011(3) RCR (Criminal) 217, to state that in case, it is not specifically averred in the FIR that the appellant had knowledge that the complainant belonged to a Scheduled Caste, then the offence would not be made out and the bar under Sections 18 and 18-A of the SC/ST Act would not operate.

2.3 Reference is also made to the judgment of Hon'ble Supreme Court in Hitesh Verma v. State of Uttarakhand, reported as 2020(4) RCR (Criminal) 868, wherein the following observation was made:

“18. Therefore, offence under the Act is not established



merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste...”

2.4 It is submitted that appellant is not involved in any other case, accordingly, prayer for grant of anticipatory bail is made. It is also submitted that the appellant is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

3. Notice of motion.

4. At the asking of Court, Mr. Neeraj Sheoran, Deputy Advocate General, Haryana, who is present in Court, accepts notice on behalf of respondent-State and seeks time to get instructions and file reply/status report in the matter.

5. List on 17.07.2024.

6. Learned counsel for the appellant is directed to hand over a complete set of paper book of this case to learned State counsel during the course of the day.

7. In the meantime, the appellant is directed to join the investigation and co-operate fully in the investigation process; and in the event of his arrest, he be released on interim bail, subject to his furnishing personal bonds and surety to the satisfaction of the Arresting/Investigating Officer. However, the appellant shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of the Code of Criminal Procedure.”

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 the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act 1989. At the same time, it is not disputed that the appellant, after having been directed vide order dated 05.06.2024, has joined the investigation. As per learned State counsel, he is not required for further investigation nor he is required for custodial



interrogation of the case. Moreover, none has put in appearance on behalf of respondent No.2 to contest the petition despite due service. This be the case, the interim bail granted to the appellant vide order dated 05.06.2024 is hereby confirmed subject to the conditions as envisaged under Section 482(2) BNSS. 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 01.06.2024, passed by learned Additional Sessions Judge, Hisar, is set aside and the instant appeal stands allowed.

(SANJIV BERRY)
JUDGE

29.08.2024
S.Sharma(syr)

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