



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CRA-S-2251 of 2024
Date of Decision: 11.06.2024

Kuldeep Kumar

...Appellant

VS

State of Haryana and another

...Respondents

AND

CRA-S-2252 of 2024

Kirpa Ram

...Appellant

VS

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Gourav Jain, Advocate
for the appellant (in both appeals).

Mr. Deepak Bharadwaj, DAG., Haryana.

Mr. Bhavdeep Singh Mamli, Advocate
for the complainant.

VIKRAM AGGARWAL, J (ORAL)

This order shall dispose of two appeals, both assailing the order dated 04.06.2024 passed by the Court of learned Additional Sessions Judge, Fatehabad, vide which the applications moved by the appellants under Section 438 Cr.P.C., for the grant of anticipatory bail in case FIR No. 215 dated 25.05.2024, registered under Section 3 of the Scheduled Castes and



the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC and ST Act'), Police Station Sadar, Fatehabad, were rejected.

2. On a statement given by one Rameshwar Dass, the FIR in question was registered. The allegation was that on 25.05.2024, i.e. the day of elections at about 8 a.m., when the complainant, who is the Sarpanch of village Mohammadpur Rohi went to the polling station, he was confronted by the appellants and two other persons who stated as to why he was using a mobile phone. It was alleged that the appellants hurled casteist abuses upon the complainant by using the words '*Dedh Chamar, Kutta Kamina*' and that the entire incident had been recorded by the complainant.

3. The appellants, who are father and son, moved applications under Sections 438 Cr.P.C., for the grant of anticipatory bail, which were dismissed by the Court of learned Additional Sessions Judge, Fatehabad vide impugned orders dated 04.06.2024 leading to the filing of the present appeals.

4. Learned counsel for the appellants has strenuously urged that the appellants have been falsely implicated. It has been submitted that admittedly, the entire incident had been recorded and the recording reveals that no casteist abuses had been hurled upon the complainant. Learned counsel submits that the present FIR is the result of political rivalry. He further submits that it has not been mentioned in the FIR that the complainant belonged to the Scheduled Caste which was within the knowledge of the appellants and, therefore, the bar as laid down under



Section 18 of the SC and ST Act would not apply. Learned counsel further submits that the appellants are well respected persons of the society and are ready to join investigation. In support of his contentions, learned counsel has placed reliance upon a judgment in **Hamidi Vs. State of Haryana, CRM-M-48375 of 2021, decided on 18.11.2021** rendered by a Coordinate Bench in which it was held that since it was nowhere mentioned in the FIR that the petitioner had knowledge that the accused persons belonged to Scheduled Caste, the bar under Section 18 and 18-A of the SC and ST Act would not apply. Learned counsel submits that the present appeals are also covered by the ratio of law laid down by the Coordinate Bench in the said case and, therefore, the appellants are entitled to the grant of anticipatory bail.

5. On the other hand, learned counsel representing the State of Haryana and learned counsel representing the complainant have opposed the submissions made by learned counsel for the appellants. It has been submitted that it has duly come in the statement of the Deputy Superintendent of Police, who is the Investigating Officer that the hurling of casteist abuses was done outside the gate of the polling station, whereas the video recording was of the incident just prior to the said incident which was inside the gate. It has been submitted there are statements of witnesses who have duly stated about the appellants having hurled casteist abuses upon the complainant. Learned counsel further submitted that since the parties previously knew each other and specific words were used by the appellants, the judgment relied upon in the case of **Hamidi Vs. State of Haryana**



(supra) would not be applicable and in view of the bar laid down under Section 18 of the SC and ST Act, no petition for the grant of anticipatory bail would be maintainable.

6. I have duly considered the submissions made by learned counsel for the parties.

7. There are specific allegations of specific words having been used by the appellants against the complainant, which have been noticed in the opening part of the judgment. Still further, the parties admittedly knew each other before hand. Under the circumstances, in the considered opinion of this Court, the non-mentioning of the fact that the appellants were aware of the complainant being a member of the Scheduled Caste would not be relevant. In the considered opinion of this Court, the judgment in the case of **Hamidi Vs. State of Haryana (supra)**, would not be applicable because in that case the FIR had been registered against 12 persons and the allegation was that all 12 persons had hurled casteist abuses against the complainant in that case. Since there was no-mention in the FIR that the accused knew that the complainant was a member of the Scheduled Caste and no specific words had been used, the Coordinate Bench came to the conclusion that the bar under Section 18 and 18-A of the SC and SC Act would not be applicable. No doubt, in the case of **Prathvi Raj Chauhan Vs. Union of India and others, 2020 (4) SCC, 727**, the Apex Court held that the bar under Sections 18/18-A of the SC and SC Act would not apply where a prima facie case was not made out. However, the same also does not apply



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to the facts of the instant case, because it cannot be said that no prima facie case is made out. Under the circumstances, the Court of the Additional Sessions Judge, Fatehabad did not commit any illegality in rejecting the applications for the grant of anticipatory bail holding the same to be not maintainable.

8. In view of the aforesaid, I do not any merit in the present appeals and the same are accordingly dismissed

(VIKRAM AGGARWAL)
JUDGE

11.06.2024
Rekha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No