

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2259-2024

Decided on 13.06.2024

Manjeet Kaur & Anr.

... Appellants s

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Parvinder Singh, Advocate for the appellants

Sandeep Moudgil, J.

1. The present appeal under Section 14(2) of the SC & ST (Prevention of Atrocities) Act, 1989 (in short, the SC & ST Act) has been preferred by the appellants impugning the order dated 31.05.2024 passed by Special Court, Jalandhar whereby the petition under Section 438 CrPC filed by the appellants seeking grant of anticipatory bail in case FIR No.112 dated 18.05.2024 under Sections 420/120-B IPC and Section 3(1) (r) of the SC & ST Act registered at Police Station Navi Baradari, Jalandhar has been dismissed.

2. The complainant Som Nath son of Resham Lal has got registered the case alleging that he required Rs.2,50,000/- for his household needs. He came in contact with one Happy who has called them at Tehsil Complex with a deed writer, who is giving amount on loan, but obtained their signatures on papers. Complainant further alleged that this person has not permitted them to read the papers and taken away them immediately to Tehsil office and transferred Rs.1,42,000/- in his account. Complainant came to know lateron that Happy, Manjit Kaur and Tarlochan Singh have got transferred his house, which is having value of approximately Rs.25 Lacs and also obtained blank

cheques from him by calling into his office. Lateron, when complainant came to know about this fraud, then he went to the office of accused, and thus he was abused by using casteist remarks in the name of his caste and was also repeatedly talked by abusing in the name of his caste. Complainant further alleged that he is a simple labourer, but accused have insulted and committed fraud upon them. On the basis of these allegations, case has been got registered.

3. Learned counsel for appellants contended that the appellants are innocent and have been roped in a false case inasmuch as there is not even a single allegation in the entire FIR that appellants had used any derogatory language against the caste of the complainant so as to invite the rigors of the penal provision under the SC and ST Act and as such, the same are not made out. He further submits that appellants are ready to join the investigation and undertakes to abide by all the terms and conditions of the bail order.

4. It is further argued that the offence under Section 3 of the SC/ST Act is not even remotely made out inasmuch as no specific words have been attributed to the appellants and only general and vague allegation has been made that while going away, the accused gave casteist abuse, as is alleged in the FIR. It is also submitted that it is nowhere mentioned in the FIR that the appellants had knowledge that the complainant belonged to a Scheduled Caste community. Reliance has been placed upon the latest judgment of 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.

5. Notice of motion.

6. On the asking, Mr. Jaspal Singh Guru, AAG Punjab accepts notice and vehemently contested the arguments raised by the learned counsel for the appellants and opposed the bail application on the ground that appellants are working as property dealer and also giving loan to various persons, therefore, they are very clever people, who have committed fraud with complainant and also abused in the name of his caste, therefore, *prima-facie* offence is made out against them. He further pressed that there is clear cut bar under Section 18 of the Act when *prima-facie* offence is made out against appellants and prayed for dismissal of bail application.

7. Heard learned counsel for the parties and gone through the record.

8. A perusal of the FIR would show that it has not been specifically stated that the appellants had any knowledge that the complainant belonged to a Scheduled Caste and even no specific words have been attributed by the appellants. It seems that the appellants have paid Rs.6,60,000/- to the complainant, who has sold away his house to them and even mutation has been sanctioned and later on the instant FIR has been got registered whereas, *prima facie*, the penal provision under the SC & ST Act have been added just to give weight to their version as alleged in the FIR. In any case, this Court is not convinced that the ingredients, as alleged in the FIR, under the SC & ST Act are, *prima facie*, made out. Under these circumstances, it will be debatable as to whether the appellants, apart from sharing any intention to cause injury had also shared any intention to commit offence under SC/ST Act inasmuch as they themselves have not uttered any objectionable word.

The matter is pending trial and this Court shies away from expressing any views on merits of the case.

9. Keeping in view the abovesaid facts and circumstances as well as legal position, prima facie, the ingredients of Section 3(1)(r) of the SC/ST Act are not made out and thus, the present appeal is allowed and in the event of arrest, the appellants shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. The Appellant shall join the investigation within one week as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C. In case the petitioner does not join the investigation, the order so passed by this Court shall stand automatically stands cancelled.

10. However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present appeal for grant of anticipatory bail.

13.06.2024
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No