

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116-CRA-S-2261-2024

Decided on 14.06.2024

Manoj Dahiya

... Appellant

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Dr. Sandeep Mudgil, Advocate and
Mr. Paramjeet Phor, Advocate for the appellant

Sandeep Moudgil, J.

1. The present appeal under Section 14-A(2) of the SC & ST (Prevention of Atrocities) Act, 1989 (in short, the SC & ST Act) has been preferred by the appellant impugning the order dated 29.05.2024 passed by Addl. Sessions Judge, Sonipat whereby the petition under Section 438 CrPC filed by the appellant seeking grant of anticipatory bail in case FIR No.0187 dated 09.05.2024 under Sections 120-B IPC and Sections 3(1)(p), 3(1)(q) and 3(1)(r) of the SC & ST Act registered at Police Station Sonipat City, District Sonipat has been dismissed.

2. Brief facts of the case are that initially a complaint was moved by the complainant Pardeep Kumar who reported that he had lodged an FIR No.401 of 2023 in police station City, Sonapat against Manoj Dahiya, upon which petitioner-Manoj and others had called him by name of his caste and fired at him. The complainant also alleged that he was married with Kiran, who belongs to Jat community, whereas he belongs to a Scheduled Caste community. The petitioner-Manoj, Anoop Dahiya and others had turned out the parents of the complainant from their house which was in the name of his

father, who had purchased the same, after his retirement from his retiral benefits, but his wife Kiran had misled and got the house transferred in her name. He stated that on 21.02.2024 at about 6 am, his wife Kiran in collusion with other accused, had called the police at the house of complainant and police forcibly took him to the police station Sadar, Sonapat. There, he was forced to remove the clothes and made to sit as such and in the afternoon, ACP Narsingh called him in the office and hurled abuses at him in the name of his caste. He uttered remarks that *'who are you to marry with a girl of jat community'*. He further threatened that how he had lodged a case against the accused persons and told him that he would cancel the FIR. He threatened that if he did not divorce Kiran, he would be put in prison in a case under sections 376 and 377 of IPC. He abused him and got his signatures on blank papers. Hence the present FIR has been lodged.

3. Learned counsel for appellant contended that the appellant is innocent and has been roped in a false case inasmuch as there is not even a single allegation in the entire FIR that appellant has used any derogatory language against the caste of the complainant or his parents 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 appellant is 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 offences under Section 3 of the SC/ST Act are not even remotely made out inasmuch as no specific words have been attributed to the appellant or his parents and only general and vague allegation has been made that the complainant was called in the police

station and if at all any wrong was done, the same is attributable to the police or his wife and not the petitioner, in any manner whatsoever.

5. Learned counsel laid vehemence to his argument by stating that this Court vide order dated 28.05.2024, has stayed the arrest of co-accused HC Jaswant, ACP Narsingh and Anoop Dahiya, Advocate, who challenged the order of the trial court dismissing their applications for anticipatory bail and as such, on the ground of parity, the arrest of the petitioner may also be stayed moreso, in view of the fact that in the investigation conducted by ACP Gorakhnath, the allegations against the petitioner have been found to be false.

6. Notice of motion.

7. On the asking, Mr. SS Pannu, DAG Haryana accepts notice and vehemently contested the arguments raised by the learned counsel for the appellant and submitted that in a case for commission of offences under the SC & ST Act especially in the provisions incorporated in the FIR, the petitioner is not entitled to be extended the benefit of anticipatory bail, therefore, the appellant does not deserve any concession of anticipatory bail as custodial interrogation of the appellant is required.

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

9. A perusal of the FIR would show that it has not been specifically stated that the appellant had any knowledge that the complainant belonged to a Scheduled Caste and even no specific words have been attributed by the appellant.

10. It has come on record that the complainant himself had transferred the house in the name of his wife, namely, Kiran who is also an an

Advocate while effecting compromise with his wife and filed petition under Section 13-B of Hindu Marriage Act.

11. Secondly, the trial court order is silent on the allegation leveled by the petitioner regarding the previous animosity of the complainant with the petitioner in relation to which the petitioner had lodged FIR No.484 dated 11.09.2023 under Sections 25 of Arms Act and Sections 148/149/285/341/506 IPC at Police Station Sonipat City, a copy of which has been placed on record as Annexure P2 and as such, the present FIR filed by the complainant seems to be nothing but a counter-blast to the prosecution earlier launched by the petitioner. As regards, there is nothing on record nor even there is any specific assertion made in the FIR which remotely suggests that the petitioner had targeted the complainant by saying casteist remarks in public or public place and as such, the offence under section SC/ST Act, *prima facie* does not appear to be made out. That being so, the penal provisions under the SC & ST Act have been added *prima facie* to spice up the contents of the FIR. In any case, the matter is pending trial and this Court shies away from expressing any views on merits of the case.

12. Keeping in view the abovesaid facts and circumstances as well as legal position, *prima facie*, the ingredients of Section 3 of the SC/ST Act are not made out and thus, the present appeal is allowed and in the event of arrest, the appellant 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.

13. 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.

14.06.2024
V.Vishal

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

(Sandeep Moudgil)
Judge

Yes/No
Yes/No