

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1768-2023 (O&M)

Date of Decision: 21.03.2024

SUCHA SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. A.S. Manaise, Advocate,
for the appellant.

Mr. Ramandeep Singh, Sr. D.A.G., Punjab

Dr. Payal Mehta, Legal Aid Counsel,
for respondent No. 2/complainant.

HARPREET KAUR JEEWAN J.

1. The present appeal has been filed by the appellant assailing the order dated 07.06.2023 passed by the learned Additional Sessions Judge, Pathankot, whereby the bail application filed under Section 438 of the Code of Criminal Procedure, 1973 (for short '*the Code*') for grant of anticipatory bail to the appellant in FIR No. 0031, dated 16.05.2023, under Section 498-A of the IPC read Section 34 thereof and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short '*the Act of 1989*'), registered at Police Station Taragarh, District Pathankot, has been dismissed.

2. On 26.06.2023, the following order was passed by the co-ordinate Bench of this Court:-

“CRM-26775-2023

Allowed as prayed for.

Main case

Learned counsel representing the appellant inter alia contends that the dispute is arising out of a marital discord between the petitioner's son and the first informant. He further contends that prima facie no offence under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is made out against the petitioner.

Notice of motion.

At the request of the Court, Mr. Saurav Verma, Addl. AG, Punjab, accepts notice on behalf of the State. List on 14.07.2023.

CRM-26776-2023

Notice of the application.

At the request of the Court, Mr. Saurav Verma, Addl. AG, Punjab, accepts notice on behalf of the State.

List on 14.07.2023.

In the meantime, in the event of arrest, the applicant-appellant shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the applicant-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) Cr.P.C."

3. On the previous date of hearing, i.e. 14.12.2023, counsel for the complainant submitted that respondent No. 2-the complainant is ready for reconciliation and the matter may be placed before the Mediation and Conciliation Centre of this Court. The parties were directed to appear before the Mediation and Conciliation Centre of this Court on 18.01.2024.

4. In compliance of the aforesaid order, the report of the learned Mediator has been received. As per said the report, the matter was taken up by the learned Mediator on various dates but the parties have not appeared and therefore, the mediation has failed.

5. Learned counsel for the appellant has submitted that in pursuance of the abovesaid order dated 26.06.2023, the appellant has joined the investigation. No doubt the complainant had moved a complaint dated 29.08.2022 to the Senior Superintendent of Police, Pathankot, levelling allegations against 7 members of the family of her husband. However, a preliminary inquiry was conducted and police lodged the FIR against three persons including the appellant. The allegations in the FIR are vague. The appellant is the father-in-law of the complainant. The son of the appellant solemnized marriage with the complainant on 11.07.2017 and it was a run away marriage. Later on due to temperamental differences, the son of the appellant separated from the complainant by way of a divorce/'*Panchayati*' divorce, dated 20.10.2017. In the year 2019, the complainant again started living together, however, the appellant had disowned his son Lakhwinder Singh and the complainant by way of a public notice dated 01.05.2019 (Annexure A-2). The allegations in the FIR of giving caste related abuses and demand of dowry are general in nature and does not constitute a *prima facie* offence under Section 3 of the Act of 1989, as such the bar under Sections 18 and 18-A of the Act of 1989 is not maintainable in this case.

6. Learned counsel for the State, on instructions from SI Harjinder Singh affirmed that the appellant has joined the investigation.

7. Learned counsel for respondent No. 2-complainant also could not refute the aforesaid position.

8. Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 26.06.2023 and also the fact that the appellant has joined the investigation, and in view of the

ratio of the judgments of Hon’ble the Supreme Court in Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, and Hitesh Verma vs. State of Uttarakhand reported as 2020 (4) RCR (Criminal) 868, the bar under Sections 18 and 18-A of the Act of 1989, is not applicable in this case. The present appeal is allowed, the order dated 07.06.2023 passed by the learned Additional Sessions Judge, Pathankot is set aside and the interim order dated 26.06.2023 by this Court is ordered to be made absolute.

9. It is made clear that nothing stated above hereinabove shall be construed as an expression of opinion on the merits of the case and the trial Court would proceed independently on the basis of evidence led/gathered before it. The observations made in the present case are only for the purpose of adjudicating the present bail application/appeal.

10. Pending miscellaneous application (s), if any, shall also stand disposed of.

March 21, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes/No
Whether reportable	Yes/No