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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2325-2024 (O&M)
Date of decision: 04.07.2024

Satender ...Appellant

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhimanyu Singh, Advocate
for the appellant.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act') by the appellant challenging the order dated 27.06.2024, passed by the learned Additional Sessions Judge, Bhiwani, whereby an application filed by him under Section 438 Cr.P.C. for grant of anticipatory bail in case arising out of FIR No. 276 dated 18.05.2024, under Sections 147, 148, 149, 323, 506 of IPC and Section 3(2)(va) of the SC/ST Act, registered at Police Station Sadar Bhiwani, District Bhiwani, had been dismissed.
2. Brief facts of the case relevant for the purpose of disposal of this appeal are that on 16.05.2024, an information was received from CHC,

Ludhiana regarding admission of Bhim Singh and Lalita after sustaining injuries in a scuffle. On receipt of such information, ASI Deepak along with other police officials reached at the said hospital. Statement of injured/complainant Bhim Singh was recorded, wherein he stated that on 16.05.2024, at about 05.00 PM, Sumit, Raju and Baga were unloading wood in front of their home. Meanwhile, Satender and his son arrived in the street on a tractor and started shouting loudly. Son of satender raised lalkara by using derogatory castiest remarks that '*Maro dedho ko*'. In the meanwhile, Raj Kumar. Shamsher, Bijender, Sanjay and Sumit arrived at the spot and started abusing the complainant. The complainant requested for five minutes time to unload the entire wood. Meanwhile, Bijender, Sumit and son of Satender gave fist blows whereas rest of accused pelted stone. Amit dragged the complainant in the street up to the house of Hardeva. On hearing the hue and cry, Lalita and Baga arrived to rescue the complainant but Bijender, Shamsher, Sanjay, Sumit and Amit manhandled Baga and Lalita as well. The complainant Baga and Lalita saved themselves by entering in the house. After registering the FIR, investigation proceedings have been initiated and the same are underway. The appellant had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Bhiwani but the same had been dismissed, vide impugned order dated 27.06.2024.

3. Learned counsel for the appellant has argued that the impugned order is not sustainable in the eyes of law as the same has been passed on false and frivolous allegations. The aforesaid offences have not been made out against the appellant. A perusal of the contents of the FIR would show that there is no allegation against the appellant of either inflicting any injury

on the person of the complainant or using any caste related derogatory word against him. The only allegation against the appellant is that he was shouting in high volume. The custodial interrogation of the appellant is not required. No recovery is to be effected from him. He is ready to join the investigation as and when required by the Police. Learned Additional Sessions Judge, while rejecting the bail application of the appellant, had ignored these facts. It is also argued that the provisions of Sections 18 and 18-A of the SC/ST Act will not be applicable in the peculiar facts and circumstances of the case. With these broad submissions, he has submitted that the appeal deserves to be allowed and the appellant deserves to be extended benefit of anticipatory bail.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegation against the appellant that he along with other co-accused reached at the spot, where a scuffle took place between them and the complainant, Lalita and Bagha were inflicted several injuries by them. It is further submitted that the accused persons had also used caste related derogatory remarks against the complainant. Therefore, a *prima facie* case for commission of offences under Section 3(2)(va) of the SC and ST Act had been made out. It is further urged that learned Additional Sessions Judge had rightly rejected the bail application of the appellant. Therefore, it is argued that the appeal does not deserve to be allowed.

5. I have heard learned counsel for the appellant and learned State counsel at a considerable length and have perused the record.

6. The appellant along with co-accused is alleged to have caused injuries to the complainant and two other persons and is also alleged to have used caste related derogatory words against the complainant. However, a

perusal of the contents of the FIR (vernacular form) shows that the only allegation levelled by the complainant against the appellant is that he was shouting. There is no mention that he had either inflicted any injury or had made any castiest remarks against him. Such allegations are against the son of the appellant and other co-accused but not against the appellant. Therefore, the provisions of SC/ST Act are not attracted against the appellant. Hence, no *prima facie* case for commission of offence punishable under the aforesaid provision of SC/ST Act can be stated to have been made out, thereby attracting the bar under Section 18 of SC/ST Act. Reliance in this regard can be placed upon ***Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454***, wherein Hon'ble Supreme Court has held that anticipatory bail could be granted if a *prima facie* case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false. Accordingly, it is held in the peculiar facts and circumstances of the case that the appellant deserves to be extended benefit of pre-arrest bail.

7. Accordingly, the present appeal is allowed. The appellant is granted concession of pre-arrest bail, subject to the conditions envisaged under Section 438(2) Cr.P.C. He is directed to appear before the Investigating Officer/Arresting Officer within a period of one week and join investigation. On his doing so, the Investigating Officer/Arresting Officer shall release him on bail, subject to his furnishing personal bonds and surety to the satisfaction of Investigating Officer/Arresting Officer. This order shall also be subject to the following conditions:-

- (i) The appellant shall cooperate with the investigation and shall appear before the Investigating Officer as and when required.

- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (iii) He shall not commit any similar offence while on bail.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.
9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

04.07.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes