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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2338-2024 (O&M)
Date of Decision:- 03.09.2024

RAMESH KUMAR

....Appellant

Vs.

STATE OF HARYANA AND ANOTHER

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sanchit Punia, Advocate for the applicant/appellant.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Deepak Grover, Advocate for respondent No.2.

AMARJOT BHATTI, J. (Oral)

1. Petitioner – Ramesh Kumar has filed the instant appeal under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'SC/ST Act') against impugned order dated 27.06.2024 passed by learned Additional Sessions Judge, Hisar in FIR No.126 dated 08.06.2024 under Sections 294, 506 and 509 of IPC and Section 3 (1) (r), 3 (1) (s), 3 (2) (va) of SC/ST Act registered at Police Station Uklana, District Hisar, whereby anticipatory bail application filed by the appellant was illegally and wrongly declined.

2. Brief facts of the case are that Sheela Devi filed written complaint to SHO Police Station Uklana Mandi, District Hisar on 08.06.2024 that she was permanent resident of village Khairi, Ukalana



Mandi, District Hisar. At a distance of about 1 KM from village Khairi on Nahla Road to Nihala Shimar Gami she was doing labour work. On 07.06.2024 at about 11 am Ramesh Kumar came and started abusing her naming caste and also clicked photographs. He used harsh words and while leaving he threatened to kill her. With these allegations, present FIR has been registered under Sections 294, 506 and 509 of IPC and Section 3 (1) (r), 3 (1) (s), 3 (2) (va) of SC/ST Act.

3. Learned counsel for the appellant argued that aforesaid FIR has been got registered by Sheela Devi who is sister-in-law of Sarpanch Menu. Present appellant had filed complaint regarding misappropriation of funds and corruption against Sarpanch Menu. Copy of complaint dated 13.03.2024 regarding scam done by Block Office Uklana, Gram Panchayat Sarpanch Khairi under MNREGA is Annexure A-1. Complaint addressed to Commissioner, Hisar regarding huge rigging in Pradhan Mantri Awas Yojana in Block Uklana dated 13.03.2024 is Annexure A-2 and another complaint for rigging of Khairi to Bhuna Road drain construction is Annexure A-3. It is pointed out that due to the aforesaid reason false FIR has been got registered from Sheela Devi, who is sister-in-law of Menu Sarpanch. The contents of FIR does not constitute any offence. It is nowhere stated in the FIR that said occurrence took place within public view. FIR is totally silent regarding alleged caste related abuses given by present petitioner.

Learned counsel has relied upon the judgment of *Hon'ble Bombay High Court* in *Balu B. Galande Vs. State of Maharashtra & Anr. 2007 (5) RCR (Criminal) 851* where in para No.19 it was observed as

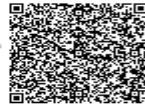
under:-



“Considering the judicial pronouncements on the subject, the expression within public view must be construed to mean that the insult or humiliation must take place in the presence of or in the proximity of at least one independent person. The test of audibility and visibility can be taken to have been satisfied if an independent person is actually present or is at a place where the utterances are clearly audible and reaches the scene of occurrence while the incident is still in progress.”

Present appellant has been falsely framed in this case on account of complaints filed by him regarding misappropriation of funds. There is delay in lodging the FIR. It is further pointed out that subsequently supplementary statement of the complainant was recorded where she claimed that said incident took place in the presence of others. Counsel for petitioner has placed on record affidavits of Suman, Sumitra, Manjeet Rani, Dilbag, Satpal, Balwaan, Rajender, Surinder Singh and Ram Niwas co-villagers denying the said occurrence. Present petitioner is ready to join the investigation as and when required. Therefore, his anticipatory bail be allowed by accepting the present appeal.

5. Bail application is opposed by learned counsel representing State as well as learned counsel representing respondent No.2. Status report has been filed confirming the allegations levelled in the FIR. Along with status report, supplementary statement of Sheela Devi recorded on 10.06.2024 is placed on record as Annexure R-1. It is argued that complainant has levelled specific serious allegations against appellant falling under the provisions of SC/ST Act. Therefore, petitioner is not entitled to concession of anticipatory bail. Appeal preferred by appellant/accused deserves dismissal.

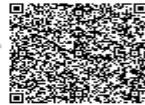


6. I have considered the arguments and have gone through the record for the disposal of the present appeal in which appellant has challenged order dated 27.06.2024 vide which his anticipatory bail application was declined by learned ASJ, Hisar. I have also gone through the contents of FIR Annexure P-4. In the said FIR Sheela Devi filed written complaint alleging that on 07.06.2024 at about 11 am Ramesh Kumar i.e. present appellant came there and started abusing her naming caste and also started clicking photographs. It is alleged that he used harsh words for long time and also threatened to kill her. Thereafter, there is supplementary statement of Sheela Devi under Section 161 Cr.P.C recorded on 10.06.2024 (Annexure R-1) where she started claiming that aforesaid incident took place in the presence of Bhateri, Suman Devi, Anarkali, Sumitra, Munni Devi, Manjeet Rani and Subhash. In this regard, learned counsel for the appellant has placed on record affidavits of co-villagers including affidavit of Suman Devi, Sumitra and Manjeet Rani denying the said incident.

7. In order to constitute offence under Section 3 (1) (r) and 3 (1)(s) it is required that occurrence takes place within public view. Firstly, in the case in hand supplementary statement of Sheela Devi has been recorded with a gap of 5 days and even if the contents of FIR are looked into there are no specific words naming caste which were allegedly uttered by present appellant/accused.

8. It is matter of defence that present appellant filed various complaints pointing irregularities addressed to Commissioner Hisar and Block Development & Panchayat Officer, Uklana (Annexure A-1 to A-3)

but at the same time it cannot be ignored that complaints dated 13.03.2024



(Annexure A-1 and A-2) were filed much prior to the said occurrence dated 07.06.2024. Present petitioner is ready to join the investigation as and when required by the police.

9. Considering the aforesaid facts and circumstances of the case, appeal preferred by appellant Ramesh Kumar is accepted and accordingly impugned order dated 27.06.2024 is set aside and petitioner is granted the relief of anticipatory bail with the direction that in case petitioner is arrested, he be released on interim bail to the satisfaction of Arresting Officer/Investigating Officer subject to the condition that petitioner will join the investigation as and when required; he will not tamper with or interfere with the investigation and will not leave the country without prior permission, as provided under Section 438 (2) Cr.P.C.

10. The petition is accordingly accepted.

11. My observations are made for the disposal of this petition and it will have no bearing on the merits of case.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly.

03.09.2024

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(AMARJOT BHATTI)
JUDGE

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