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IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRA-S-2399-2024 (O&M)

Date of Decision: 08.08.2024

SATISH YADAV

...Appellant

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Mehta, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Instant appeal has been preferred against the impugned order dated 28.06.2024 passed by learned Additional Sessions Judge, Narnaul in case FIR No. 187 dated 22.04.2024 registered under Sections 323, 354, 452, 506 and 34 of Indian Penal Code and Sections 3(1)(s) and 3(1)(w) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (amended in the year 2015) (for short SC&ST Act), at Police Station City Narnaul, District Mahendergarh, vide which pre-arrest bail of the appellant has been dismissed.

2. On 10.07.2024, following order was passed:

"CRM-27045-2024"

Present application has been filed under Section 482 Cr.P.C. seeking exemption from filing certified/true typed copy of FIR No.187 dated 22.04.2024 (Annexure P-1) and the impugned order dated 28.06.2024 (Annexure P-2).

In view of the averments made in the application, same is allowed and exemption sought is granted.

CRA-S-2399-2024

Present appeal has been preferred against the impugned order dated 28.06.2024 passed by learned Additional Sessions Judge, Narnaul, in FIR No.187 dated 22.04.2024 under Sections 323, 354, 452, 506, 34 of IPC and Sections 3(1)(s) & 3(1)



(w) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (amended in the year 2015) (for short SC&ST Act'), registered at Police Station City Narnaul, District Mahendergarh, vide which pre-arrest bail of the appellant has been dismissed.

Learned counsel for the appellant, inter alia, contends that the factual ingredients breaching the threshold of SC&ST Act are clearly missing, as the alleged incident has not occurred in the public place and when the police was called at the spot, it was initially indicated that Sumer Singh son of the complainant had a fight with Aatish and the appellant was not even found present at the spot and the alleged injuries suffered by the witnesses are simple in nature and not attributable to the appellant. Learned counsel for the appellant relies upon a judgment of the Hon'ble Apex Court in **Prathvi Raj Chauhan Vs. Union of India and others**, wherein it has been held that there is no bar in entertaining an application under Section 438 Cr.P.C., if prima facie, the offence under SC&ST Act is not made out.

Notice of motion for 08.08.2024.

Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273, Arnab Manoranjan Goswami Vs. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51, Siddharam Satlingappa Mhetre Vs. State of Maharashtra and ors., 2010 SCC OnLine SC 1375 and Shri Gurbaksh Singh Sibbia Vs. State of Punjab, (1980) 2 SCC 565**, the appellant is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer. In the event of arrest, the appellant shall be admitted to interim bail on furnishing bail/surety bonds to the satisfaction of investigating/arresting officer and the appellant shall co-operate in the investigation.

If the arresting officer does not permit the appellant to join the investigation, the appellant would appear before learned Illaqa Magistrate, who would then summon the arresting officer and direct him to join the appellant in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court on merits of the case and learned

trial Court shall decide the same on its own merits, strictly in accordance with law.”

3. Learned State counsel on instructions from DSP Mohd. Jamaal, submits that in compliance of order dated 10.07.2024 passed by this Court, the appellant has joined the investigation and is not required for further custodial interrogation.
4. Keeping in view the statement made by learned State Counsel the order dated 10.07.2024, is made absolute. The appellant shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
5. The appeal is accordingly disposed of.

08.08.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No