

**CRA-S-2407-2024****1**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRA-S-2407-2024
Date of Decision : 25.10.2024****HARI CHAND**

.....Appellant(s)

VERSUS**STATE OF HARYANA AND ANOTHER**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vikas Sheel Verma, Advocate and
Ms. Anchal Vemra, Advocate,
for the appellant(s).

Mr. Abhinash Jain, DAG, Haryana.

Mr. Tanmay Gupta, Advocate,
for the respondent no.2.

KULDEEP TIWARI, J.(Oral)

1. On 07.08.2024, this Court had passed the hereinafter
extracted order, upon the instant appeal:-

“Despite service, no one has caused appearance on
behalf of respondent No.2-complainant, is, hereby, proceeded against
exparte.

Through the instant appeal, challenge is thrown to the
order dated 21.6.2024 passed by the learned Additional Sessions
Judge, Palwal, whereby, the application preferred under Section 438
Cr.P.C. for the grant of pre-arrest bail has been declined.

The allegations against the appellant are that he has
grabbed/embezzled an amount of Rs.2,00,000/- from the
respondentcomplainant by way of fraud on the pretext of providing
job to her daughter in Haryana Police and when the complainant
demanded the amount back, upon which the petitioner called the
complainant and her daughter to his house, wherein, in collusion with
his family members gave beatings to the complainant and her
daughter and also insulted them by using caste words and also gave
threat to kill them. On the basis of such allegations, the instant FIR
has been registered under Sections 420, 406, 323, 506 IPC. Later on

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during investigation, Section 3 of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, has been invoked.

Learned counsel for the petitioner in the asking for the relief (supra) submits that he has taken an amount of Rs.60,000/- as loan from the complainant and infact subsequently, he has returned Rs.90,000/- which includes the interest to the complainant. He further submits that there is no inculpatory evidence with the prosecution to substantiate that the transaction of amount which took place between the petitioner and the complainant is for the purpose of getting job to the daughter of the complainant. He further submits that the ingredients of Section 3 of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, are totally absent, therefore, the prosecution in order to exaggerate the gravity of the offence invoke the same.

The learned State counsel has filed reply to the instant petition by way of affidavit of DSP, Palwal, which is taken on record and has opposed the grant of pre-arrest bail to the petitioner on the ground that there is a video footage reflecting the petitioner obtaining some amount from the complainant.

Be that as it may, the veracity of allegations is yet to be established by the prosecution after conclusion of the investigation, therefore, this Court deems it fit and appropriate to grant the relief of anticipatory bail to the petitioner.

In view of the above, the petitioner is directed to join the investigation and in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438(2) of the Cr.P.C.

Adjourned to 25.10.2024.”

2. Today, the learned State counsel has, on instructions imparted to him by the police official concerned, stated that pursuant to the making of the hereinabove extracted order, though the appellant(s) has joined investigation, however, recovery of disputed amount, has yet not been got recovered by him.

3. Today, Mr.Tanmoy Gupta, Advocate, has caused appearance on behalf of respondent No.2, through a validly executed power of attorney in his favour. The same is taken on record.

4. He strongly opposed the prayer made by learned counsel for the appellant, and submits that on the very next date of occurrence,

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respondent no.2/complainant got himself medico-legally examined, wherein he was stated to be have suffered injuries. He further submits that there is a CCTV footage with regard to the receipt of money by the appellant, therefore, he is not entitled for granting the pre-arrest bail, specifically in the light of bar as envisaged under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989.

5. This Court has considered the submissions made by learned counsel for both the parties concerned, and is of the view that the instant appeal is amenable to allowed for the hereinafter extracted reasons:-

- i. The appellant in deference to the directions issued by this Court has joined investigation;
- ii. So far as the issue regarding recovery of amount is concerned, the criminal proceedings cannot be converted into the recovery suit, and the complainant is at liberty to have effective alternate remedy for seeking that relief;
- iii. *Prima facie* this Court is of the view that the ingredients of Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, are not present in the instant matter, therefore, the embargo of Section 18 thereof, would not come in the way of the present appellant, for seeking the relief of pre-arrest bail;
- iv. The other allegations are required to be proved by adduction of evidence at the relevant stage of the trial.

6. In view of the above, impugned order dated 21.06.2024, is hereby, **set aside**, and the hereinabove extracted interim order dated 07.08.2024, is hereby made **absolute**, subject to the hereinafter extracted conditions:-

- “(i) the appellant(s) shall not commit an offence similar to the present offence;

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- (ii)

the appellant(s) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (iii)

the appellant(s) shall make himself/herself available for interrogation by a police officer as and when required.”
7.

This order should not be treated as “blanket” order. It will not be read granting appellant(s) indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
8.

Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.
9.

All pending application(s), if any, also stand **disposed** of accordingly.

October 25, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No