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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1898-2023 (O&M)
Date of decision: 21.03.2024

Bharat and another ...Appellants

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jitender Dhanda, Advocate for the appellants.

Mr. Kiran Pal Singh, AAG, Haryana.

None for respondent No. 2 despite service.

MAHABIR SINGH SINDHU, J.

Present appeal has been preferred under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST Act”) for seeking pre-arrest bail in FIR No.133 dated 02.05.2023 under Sections 323, 427, 506 read with Section 34 of Indian Penal Code, 1860 and Section 3(2)(va) of SC/ST Act, 1989, registered at Police Station, Sadar Palwal, District Palwal, and for setting aside the impugned order dated 06.07.2023, whereby anticipatory bail of the appellants was declined on the ground of maintainability.

(2) Allegations are that appellants inflicted injuries to the complainant-Tek Chand and also uttered objectionable words relating to his caste.

(3) Learned counsel contends that appellants were granted interim concession of pre-arrest bail by the Coordinate Bench on 11.08.2023 and in pursuance thereof, both of them have joined investigation. Further contended

that matter has been amicably settled between the parties i.e. appellants as well as respondent No.2/complainant and as such, their custodial interrogation would not serve any purpose.

(4) Learned State counsel on instructions from DSP-Naresh Kumar acknowledged the factum of joining the investigation, but he has shown ignorance about the compromise between the parties.

(5) Despite service, no one has come forward on behalf of respondent No.2/complainant; thus, it appears that he is no longer having any objection in case the interim protection is made absolute.

(6) Heard learned counsel for the parties and perused the paper-book.

(7) The Co-ordinate Bench on 11.08.2023, granted interim bail to the appellants and the order reads as under:-

“Instant appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST Act”) impugning order dated 06.07.2023 and for grant of anticipatory bail in:

FIR No.	Dated	Police Station	Section(s)
133	02.05.2023	Sadar Palwal, District Palwal	323, 427, 506, 34 IPC and Section 3(2) (va) of SC/ST Act, 1989

Counsel for the appellants contends that the allegation against the appellants, who are brothers, is that they interfered in the proceedings of the Panchayat, inflicted injuries on the complainant and two other persons and uttered objectionable words relating to caste of the complainant. Counsel submits

that the incident is alleged to have taken place on 25.04.2023 and although a complaint was immediately filed but the complainant gave in writing that he does not want any action to be taken for a few days. He submits that the allegations levelled in the complaint are motivated as the appellants were objecting to the illegal possession of the Sarpanch and the victims on the Panchayat land.

Notice of motion.

On asking of Court, Mr. Munish Sharma, DAG, Haryana, accepts notice on behalf of the State. He has filed status report by way of an affidavit of HPS, Deputy Superintendent of Police, Palwal on behalf of respondent No.1-State. By referring to the MLR of the complainant and the victims, he submits that they have suffered simple injuries. Still further, upon instructions from HC, Sukhbir Singh, he submits that except for the complainant and his son, till date, no independent witness has supported the allegations attracting offence under the SC/ST Act.

List on 19.10.2023.

Appellants are directed to appear before the Investigating Officer on 31.08.2023 at 10.00 A.M. at Police Station Sadar Palwal, District Palwal, and join the investigation and appear as and when called by the Investigating Officer. In the event of arrest, they shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. They shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

Respondent No. 2 be served for the next date.”

(8) It is acknowledged by learned State counsel on instructions that in pursuance of the aforesaid order, both the appellants have joined investigation and respondent No.2/complainant has chosen not to oppose the

prayer; thus, in such a scenario, custodial interrogation of the appellants would not serve any purpose. Even from bare reading of the FIR, *prima facie*, no offence under Section 3(2)(va) of the SC/ST Act is made out against the appellants in the present case.

(9) Consequently, present appeal is allowed; impugned order dated 06.07.2023 is set aside; and interim order dated 11.08.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(10) It is also made clear that appellants shall fully co-operate with the Investigating Officer as and when called for further investigation.

(11) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(12) It is clarified that in case of any recurrence on the part of the appellants, the State would be at liberty to move an application for recalling of this order. Also clarified that non-appearance of appellants before learned trial Court shall be construed as misuse of the concession.

(13) Disposed off accordingly.

(14) Pending application(s), if any, shall also stand disposed off.

21.03.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No