

117 **IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRA-S-2295-2023 (O&M)
Date of Decision: 18.04.2024

Narender Kumar and others Appellants

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Aditya Sanghi, Advocate,
for the appellants.

Mr. Kiran Pal Singh, AAG, Haryana
for respondent No.1.

Mr. Daljeet Singh Virk, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU. J.

Present appeal has been preferred under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (for short “the Act”) for seeking bail pending trial in FIR No.162 dated 06.07.2023 registered under Sections 323 and 506 read with Section 34 IPC and Section 3 of the Act, at Police Station, Ding, District Sirsa and for setting aside order dated 18.08.2023, passed by learned Additional Sessions Judge/Special Court, Sirsa cancelling bail pending trial granted to the appellants.

2. Allegations are that on 17.05.2023, appellants caught hold the neck of informant-Govind Ram and abused him in the name of his caste and threatened to kill him.

3. Learned counsel for appellants contends that appellants were granted bail pending trial by learned Additional Sessions Judge/Special Court on 08.08.2023 and the order was recalled after ten days merely on the premises that *de-facto* informant was not made as a party in the bail application. Further

contends that while passing the impugned order dated 18.08.2023, no cogent reason has been assigned by learned Special Court. Also contends that there is a delay of 50 days in lodging the FIR and no explanation has been given in this regard. Specifically contended that both sides i.e. appellants as well as informant-respondent No.2 are co-sharers and *prima facie*, it is a civil dispute, but has been given the colour of criminal proceedings.

4. Learned State counsel as well as learned counsel for informant while vehemently opposing the prayer submitted that order dated 08.08.2023 has rightly been recalled by learned Additional Sessions Judge/Special Court in view of the fact that it was mandatory to implead the informant as party/respondent.

5. Heard learned counsel for the parties and perused the paper-book.

6. In the present case, occurrence is alleged to have taken place on 17.05.2023; whereas, FIR was registered on 06.07.2023 and there is no explanation coming forward for delay in lodging the FIR. Apart that, after going through the contents of FIR, *prima facie*, no offence attracting Section 3 of the Act is made out against the appellants. Moreover, once, bail had been granted by learned Special Court on 08.08.2023, then there was no occasion to cancel the same, merely on the premise that complainant was not made as a party. A fortiori, there is no allegation that appellants have misused the concession; nor there is any reason assigned for recalling of the order whereby appellants were granted bail. Above all, the bail was granted by learned Special Court after hearing learned State counsel as well as upon consideration of the material available on record and there is no quarrel to that effect.

7. Thus, in such a scenario, at best the complainant could have challenged the order dated 08.08.2023 in an appeal under Section 14-A of the Act, but the course adopted by learned Special Court is not legally acceptable.

8. In view of the above, there is no option, except to allow the appeal.
9. Consequently, present appeal is allowed; impugned order dated 18.08.2023 passed by learned Additional Sessions Judge/Special Court, Sirsa is set-aside. The appellants shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned ASJ/Special Court/Chief Judicial Magistrate/Duty Magistrate concerned.
10. Needless to say that appellants shall fully co-operate with the learned ASJ/Special Court without seeking any unnecessary adjournment(s).
11. It is clarified that in case there is any misuse of concession on the part of appellants, State of Haryana/complainant would be at liberty to move an appropriate application for recalling of this order. Also clarified that non-appearance of appellant(s) before learned Special Court shall be construed as misuse of the concession.
12. The above observations be not construed as an expression of opinion on merits of the case; rather, confined only to decide the present bail matter.
12. Pending criminal misc. application(s), if any, shall also stand disposed off.

18.04.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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