



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3280-2024
DECIDED ON: 30.09.2024

PUSHPENDER ALIAS PUSHPAK ALIAS
BHOLLU AND ANOTHER

.....APPELLANTS

VERSUS

STATE OF HARYANA AND ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shashi Kumar Yadav, Advocate
for the appellants.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

This appeal has been preferred against the order dated 16.09.2024 passed by Additional District and Sessions Judge, Rewari, whereby anticipatory bail application of the appellants have been declined.

2. Prosecution story setup in the present case as per the version in the FIR are as under:-

Statement of Sandeep Kumar S/O Rajesh Kumar R/O Village Bhotwas Bhondu Police Station Jatusana District Rewari Age 28 years Phone No. 8901640953 has stated that I am a resident of the above mentioned address and I work as a daily wage labourer. My father works as a barber. On 26.05.2024, Bikram S/O Omprakash came to me and said that he had to purchasing some

whitewash/painting material, come with him to Bareli, I went with him to Bareli, he called Pushpendra and we were sitting in the shop, Pushpender gave beatings to me and Bikram also gave beatings to me and then both of us came to our house. Today on 28.05.2024, Pushpender alias Bholu S/O Raghbir and his father Raghbir came to my house and came to his house and started beating his mother and wife and he was informed about the same by his neighbour and said that there is a fight going on in your house. When I reached to my house, I saw Pushpendra and his father Raghbir entered my house and started scuffling and fighting with my family members. When I tried to stop them, they beat me also and they gave a blow with an iron rod on his head and also caused injuries to him on his foot as well as his stomach and back and they also gave punches and kicks in the stomach of his mother. They threatened me by saying that today he and his family members have been saved by their neighbours and the crowd, however next time they will kill you. I called the police by dialling 112 from my phone and the police came to the spot and I recorded my statement that they also said caste related abusive words Chamar and Dad to him. Legal action should be taken against those pesons. SD/-SANDEEP 8901640953 ATTESTED HC DHARAMBIR PS JATUSANA DT 28.05.2024.”

3. Contention

On behalf of the appellants

Learned counsel for the appellants contends that there is no allegations qua SC/ST Act but subsequently after conducting the completion of an inquiry by the Deputy Superintendent of Police, the allegations under Sections 3(1)(s) and 3(2)(va) of SC/ST Act have been added though no

incriminating material and even essential ingredients of that offence are not available.

On behalf of the complainant

Mr. Gulshan Nandwani, Advocate has put in appearance on behalf of the complainant and has filed *vakalatnama*, which is taken on record. He contends that both the appellants forcefully entered into the house of the complainant and caused injuries to him as well as his family members. He further contends that the life of the complainant and his family members could be saved only by the people who gathered at the place of occurrence once he raised his voice seeking help.

On behalf of the State

Learned State Counsel appearing on advance notice, also reiterates the stand taken by the complainant as above and seeks dismissal of the instant petition.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions made by counsel for the parties and on perusal of the narrated facts in the FIR, I am of the considered view that a plain reading of the FIR also do not disclose any offence particularly under Sections 3(1)(s) and 3(2) (va) of SC/ST Act, however, as far as allegations qua Section 452 and 506 IPC are concerned, the complainant as well as the State has contended to the effect that the appellants forcefully entered into the house of the complainant and caused injuries which also invites Section 323 IPC.

This Court is sanguine of the fact that respondent-State has not put forth any case or reason for custodial interrogation of the appellants inasmuch as no recovery of any article or weapon is to be effected and,

therefore, do not find it a case where custodial interrogation of the appellants is considered to be necessary.

5. **Decision**

In the light of above, the appellants are directed to be released on anticipatory bail subject to their joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The appellants shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C which are reproduced below :-

“(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.”

However, it is made clear that in case the appellants do not comply with the aforesaid direction of joining the investigation within one

week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present appeal stands disposed of.

30.09.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No