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

Sr. No.209**CRA-S-3377-2024 (O&M)****Date of decision : 12.11.2024**

Sher Singh

..... Appellant

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ravi Kant Berwal, Advocate for
Mr. Baljeet Beniwal, Advocate, for the appellant.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. This appeal has been filed for grant of anticipatory bail to the appellant in case FIR No.0988 dated 24.11.2023, under Sections 186, 332, 34, 353 & 506 IPC and Section 3 of the SC/ST Act, 1989 (Amendment 2015), registered at Police Station Camp Palwal, District Palwal.

2. The translated version of the abovesaid FIR reads as under:-

“To Sir, Post In-charge, Kithwadi Pul, Palwal, Subject: Regarding Sher Singh son of Sibba, resident of Krishna Colony, Palwal, coming to the outpost after drinking alcohol and creating ruckus, Sir, the request is that SPO Sumer Singh number 139 Palwal, who is posted in the outpost on general duty. That 20.11.2023 at around 9:30 pm, a drunk person came to the police post and as soon as he came, he threatened and drove away an unknown person who was standing in the post and went straight into the room of Roznamcha, when he was restrained to pick up the papers and roznamcha, then he said that I have got the post built, it will be done as I want, when I repeatedly refused to do so, he got angry and hit me with a stick

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and started abusing me that I have got the post built and Chamar Dedh has been appointed in the post, I belong to the Chamar caste, when I found out the name of that person, then I came to know that his name is Sher Singh son of Sibba resident of Krishna Colony Palwal, who belongs to the Jaat caste, at the same time his son Rahul son of Sher Singh also came, both of them abused me by using casteist words and insulted me repeatedly, which I told all this to the I.O. and the in-charge post also came, at the spot, Sher Singh is a lawyer and his son Rahul pushed me and again using casteist words, Chamar Dedh and abused me into the post. When he was about to leave, at that very moment his daughter came and while trying to intervene, seeing the opportunity, all of them left the place and while leaving he threatened action should to kill me, strictest legal taken against Sher Singh be Advocate, Applicant Sumer Singh son of Ram Kishan, City resident of Karna, Police Station City Palwal.”

3. Learned counsel for the appellant *inter alia* submits that the appellant has been falsely implicated in this case. He further submits that no injury is attributed to the appellant and no such incident ever occurred in the police post. He further submits that the appellant had no altercation with the complainant, no caste remarks have been passed and the appellant did not know the caste of the complainant. He further submits that there is a delay of 4 days in registering the FIR and there is no CCTV footage that the appellant had any altercation with the complainant.

4. *Per contra*, learned State counsel while placing reliance upon status report has submitted that during the course of investigation, the complainant joined investigation and submitted his caste certificate and a pen drive containing video footage in which, the appellant was clearly

shown to abusing the complainant.

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5. Heard the rival submissions made by learned counsel for the parties.

6. Undisputedly, it is a well settled law that anticipatory bail can be granted, only if a prima facie case for commission of offence under the SC/ST Act is not made out or if it can be shown that the allegations were false and in such a situation, the provisions of Section 18 of the Act would not apply. Reference in this regard can be placed on **Dr. Subhash Kashinath Vs. State of Maharashtra (2018) 6 SCC 454** and **Prathvi Raj Chauhan Vs. Union of India (2020) 4 SCC 727**, wherein it was observed so. However, the question that arises for consideration in this case is as to whether the provisions of Section 3 of SC/ST Act are prima facie attracted in this case or not? In **Swaran Singh and others Vs. State through Standing Counsel and another (2008) 8 SCC 435**, it was observed by Hon'ble Supreme Court that calling a member of the schedule caste as 'chamar' with intent to insult or humiliate him in public view under Section 3(1)(x) of the Act (old Act) and whether there was intent to insult or humiliate by using the word 'chamar' will of course depend on the context in which it was used. In **Chandra Poojari Vs. State of Karnataka, 1998 Cri. LJ 53**, High Court of Karnataka had observed that merely calling someone by his caste did not attract the provisions of SC/ST Act. It has to be proved that the accused was aware that the complainant belonged to that caste and was also conscious of the fact that the act was committed knowing that the victim belonged to the scheduled caste.

7. In the instant case, the caste related remarks were uttered by the appellant within the public domain. These words are prima facie shown to be

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uttered with intent to insult the complainant, thereby attracting the provisions of Section 3(1)(r) & 3(1)(s) of the SC/ST Act. As such, the bar as created under Section 18 of the Act is certainly attracted in this case. The learned Special Court by dismissing the application of the appellant, in view of these facts, therefore, cannot be stated to have committed any illegality. Accordingly, finding no reason to interfere with the order as passed by the learned Special Court, the same is upheld. The appeal is dismissed and it is held that since the provisions of commission of offence under Section 3(1)(r) & 3(1)(s) are shown to have been prima facie attracted in this case, therefore, the appellant is not entitled to be granted relief of release on pre-arrest bail.

8. There are serious allegations leveled against the appellant that he had abused the complainant by using derogatory words and the same was recorded as evidence. To unearth the true dimensions of the alleged crime, the police requires custodial interrogation of the petitioner in this case.

9. In view of the aforementioned facts & circumstances of the case as well as submissions made by learned counsel for the State, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

10. The appeal is accordingly dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

12.11.2024
Ramandeep Singh