

121/1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3342-2023(O&M)
Date of decision: 08.04.2024

Gaurav Saharan

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sanjiv Gupta, Advocate for the appellant.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Tushar Wadhwa, Advocate for the complainant.

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”) seeking pre-arrest bail in FIR No.0137 dated 17.09.2023 under Sections 323, 341, 365, 506 read with Section 34 of Indian Penal Code, 1860 and Section 3 of SC/ST Act, 1989, registered at Police Station, Rori, District Sirsa, and for setting aside the impugned order dated 23.10.2023 passed by learned Additional Sessions Judge, Sirsa, whereby anticipatory bail of the appellant was declined on the ground of maintainability.

(2) Allegations are that appellant alongwith co-accused caused injuries to complainant with *danda* and *iron stick* and also hurled casteist remarks to the complainant.

(3) Contends that this Court granted interim bail to the appellant on 14.11.2023 and in terms thereof, he has already joined the investigation and his custodial interrogation is not required.

(4) Learned State counsel on instructions from quarter concerned has apprised the Court that in terms of order dated 14.11.2023, appellant has joined the investigation and his custodial interrogation is not required.

(5) Learned counsel for the complainant has vehemently opposed the prayer of appellant.

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

(7) This Court on 14.11.2023, granted interim bail to the appellant and the order reads as under:-

“ Contends inter alia that matter has been compromised between the parties at their own level i.e. appellant as well as respondent No.2/complainant.

Notice of motion.

On asking of the Court, Mr. Kiran Pal Singh, AAG, Haryana accepts notice on behalf of respondent No. 1 and seeks time to have instructions and/or file written response in the matter.

Mr. Tushar Wadhwa, Advocate has filed Memo of Appearance on behalf of respondent No.2/complainant and acknowledged the factum of compromise.

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In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the even of arrest, the Arresting Officer would admit him to interim bail in the present case, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner is also directed to abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

- (8) It is acknowledged by learned State counsel that in pursuance of above order, appellant has joined investigation and his custodial interrogation is not required at this stage.
- (9) Although, learned counsel for complainant objected to the prayer of the appellant, but State is not asking for custodial interrogation, therefore, the objection of complainant is rejected.
- (10) Consequently, present appeal is allowed; impugned order dated 23.10.2023 is set aside; and interim order dated 14.11.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (11) It is also made clear that appellant shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (12) 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.
- (13) It is clarified that in case of any recurrence on the part of the appellant, the State would be at liberty to move an application for recalling of this order. Also clarified that non-appearance of appellant before learned trial Court shall be construed as misuse of the concession.
- (14) Disposed off accordingly.
- (15) Pending application(s), if any, shall also stand disposed off.

08.04.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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