

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-3640-2023
Date of decision: 06.03.2024

DevenderPetitioner.

Versus

State of Haryana and anotherRespondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sunil Saharan, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

None for respondent No. 2.

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SANJIV BERRY, J. (ORAL)

1. Instant appeal has been preferred against the order dated 30.11.2023 vide which the anticipatory bail of the appellant, filed under Section 438 Cr.P.C., in case FIR (Annexure A-1), had been declined by the learned Additional Sessions Judge, Hisar. Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
210	01.08.2023	147, 148, 149, 506 IPC & 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989	Bass, District Hisar

2. Heard.

3. Learned counsel for the appellant contends that appellant is innocent and has been falsely implicated on the basis of disclosure statement of the co-accused and no allegation has been levelled against the appellant attracting the provisions of the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further contends that vide order dated 08.12.2023, appellant had been directed to join investigation and granted interim bail. He submits that the petitioner has already joined the investigation.

4. During the course of hearing on 08.12.2023, following order was passed: -

‘Instant appeal has been filed against order dated 30.11.2023 passed by learned Additional Sessions Judge, Hisar whereby application filed by the appellant under Section 438, Cr.P.C., for grant of anticipatory bail in FIR No.210 dated 01.08.2023 under Sections 147, 148, 149, 506 IPC and Section 3 of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Bass, District Hisar, was dismissed.

Counsel for the appellant contends that no allegation attracting offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been levelled against the appellant, who has been arraigned on the basis of disclosure statement of the co-accused. It is his categoric assertion that the appellant was not present at the place of occurrence.

Notice of motion.

On asking of the Court, Mr.Munish Sharma, DAG, Haryana, accepts notice on behalf of the respondent No.1 – State.

Complainant/respondent No.2 be served for 06.03.2024 on deposit of necessary charges.

Appellant is directed to appear before the Investigating Officer on 22.12.2023 at 10:00 A.M. at Police Station Bass, District Hisar and join the investigation and appear as and when called by the Investigating Officer. In the event of arrest, he shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438(2) Cr.P.C.’

5. Learned State counsel, on instructions from Inspector Pavittar Singh, informs the Court that the appellant has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

6. After considering the rival contentions and perusing the record, it transpires that the appellant has been booked in the instant FIR for having committed offence punishable under Sections 147, 148, 149, 506 IPC & 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is debatable that whether the allegations levelled in the complaint attract the provisions of the SCs and STs Act 1989, in the light of the judgment of Hon’ble Apex Court in *Writ Petition (C) No. 1015 of 2018* titled as ‘*Prithvi Raj Chauhan vs. Union of India and others*’. At the same time, it is not disputed that the petitioner after having been directed vide order dated 08.12.2023 has joined the investigation. As per learned State counsel, he is not required for further investigation nor he is required for custodial interrogation of the case. This be the case, the interim bail granted to

the petitioner vide order dated 08.12.2023 is hereby confirmed subject to the conditions as envisaged under Section 438(2) Cr.PC. The petitioner is directed to join investigation as and when required in future also by way of a written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

7. With these observations, impugned order dated 30.11.2023 passed by learned Additional Sessions Judge, Hisar, is set aside and the instant appeal stands allowed.

06.03.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |