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

**CRA-S-2356-2024 (O&M)
Date of Decision: 13.05.2025**

Devender Poonia

..... Appellant

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Bedi, Advocate
for the appellant.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Raj Pal Singh, Advocate,
for respondent No.2 (through V.C.).

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is an appeal filed by the petitioner for setting aside the order dated 01.07.2024 passed by learned Additional Sessions Judge, Gurugram vide which the application for grant of anticipatory bail has been dismissed.

2. Learned counsel for the appellant submitted that it is a case where the appellant has been falsely implicated by a married lady who alleged that an offence of rape has been committed on her by the appellant despite the fact that there was a consensual relationship between them and they were living together for long time and when their relationship turned sour, the present FIR was got lodged against him by the complainant. He further submitted that it is a case where the complainant was earlier married to some one else which is so reflected in the FIR itself and her relationship turned sour with him and some matrimonial proceedings also started between them and in the meantime, she



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started residing with the present appellant and even some ceremonies were performed but when the relationship with the present appellant also turned sour, then the present FIR was got lodged. He further submitted that so far as the invocation of offences under Sections 3(r)(s), 3(v)(a) & 3(z) of the SC & ST Act is concerned, they were added later on because of the reason that it came to the knowledge of the police later that the victim belonged to SC & ST category but there is no imputation with regard to passing of any casteist remarks by the appellant against her and further submitted that even otherwise also when notice of motion was issued on 05.07.2024 which is almost 10 months ago, the appellant was directed to join and co-operate with the investigation process and it was also directed that no coercive action shall be taken against him. He submitted that thereafter in pursuance of the aforesaid order, the appellant has already joined the investigation and has also fully cooperated with the investigation process and submitted that even in the reply so filed by the State, it has been so specifically stated that appellant has joined the investigation and is not required for custodial interrogation and therefore, the order by which the appellant was granted interim protection may be made absolute.

3. On the other hand, Mr. Surinder Kumar Dagar, learned DAG, Haryana, has submitted while referring to the reply that the complainant was a married lady but was having differences with her husband and she had started staying with the appellant and as per the reply she also performed ceremonies of marriage with the appellant.

4. Learned State counsel while referring to Para 10 of the reply submitted that the appellant has joined the investigation and has fully co-operated with the investigation process and he is not required for custodial interrogation.

5. Mr. Rajpal Singh, learned Legal Aid Counsel for respondent



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No.2/complainant has caused appearance through video conferencing and submitted that although the complainant wishes to file reply in the present case but the same could not be filed and on the last date of hearing, time was also sought in this regard. He further submitted that there are allegations by the complainant with regard to rape committed upon her by the appellant and she is the victim of the same and therefore, the appellant does not deserve the concession of anticipatory bail.

6. I have heard the learned counsels for the parties.

7. It is a case where as per the FIR the complainant was already married but there was some matrimonial dispute between her and her husband and thereafter, as per the learned counsel for the parties, she started living with the present appellant. A perusal of the reply filed by the State would show that she also got some ceremonies performed with the appellant. The interim order was passed by this Court on 05.07.2024 and it was a categorical stand of the learned State Counsel and also so stated in Para No.10 of the reply that the appellant has already joined investigation and he is not required for custodial interrogation.

8. Therefore, this Court is of the considered view that without going into the merits of the present case with regard to the allegations so alleged but only for the purpose of considering the prayer for grant of anticipatory bail, the appeal deserves to be allowed. So far as the invocation of Sections 3(r)(s), 3(v) (a) & 3(z) of the SC & ST Act is concerned, it was so stated by learned State Counsel as well that the aforesaid provisions were added later on but there are no imputation on the casteist remarks upon the complainant. Although there is a bar contained under Sections 18 & 18-A of the SC & ST Act, but this Court is of the view that considering the totality of the circumstances of the present case and in view of the law laid down by Hon'ble Supreme Court in "**Prathvi Raj**

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Chauhan Vs. Union of India and others”, 2020 AIR (SC) 1036, wherein it was held that there is no absolute bar and each and every case has to be seen in the facts and circumstances of the case. Therefore, this Court is satisfied that the bar contained under Sections 18 & 18-A of the SC & ST Act will not apply to the present appellant.

9. In view of the aforesaid facts and circumstances, the present appeal is allowed. It is directed that in case in future the appellant is required to join investigation, then he shall join the same and shall also co-operate fully with the investigation process. In the event of arrest, the appellant shall be released on bail on his furnishing of personal bonds and surety bonds to the satisfaction of the Arresting/Investigating Officer.

13.05.2025*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |