



228

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

CRA-S-3718-2024 (O&M)

Date of Decision:- 10.01.2025

SANDEEP KAUR

....Appellant

Vs.

STATE OF HARYANA AND ANR

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Kuldeep Singh Siwach, Advocate for Appellant.

Ms. Nidhi Garg, AAG, Haryana.

AMARJOT BHATTI, J.

1. Appellant –Sandeep Kaur has filed the instant appeal against order dated 07.11.2024 passed by learned Additional Sessions Judge-cum-Special Judge, Fast Track Court, Fatehabad in FIR No.331 dated 24.10.2024 under Sections 376 (2) (n) of IPC, Section 6 of Prevention of Children from Sexual Offences Act, 2012, Sections 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and Section 3(2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short SC/ST Act) registered at Police Station Sadar Tohana, District Fatehabad whereby anticipatory bail application filed by the appellant was illegally and wrongly declined.

2. Facts of the case are that prosecutrix who is a minor girl of 15 years of age gave her statement that she belonged to scheduled caste and

was studying in 8th class. Her mother was a divorcee. On 9.03.2024 Sarvjeet, Lovepreet Singh, Binder Singh, Rani Kaur came to the house of her *massi* to meet her mother. It was told that Lovepreet was engaged but three days prior to the marriage girl had gone away with some boy and on this, it was requested that her mother should perform marriage of prosecutrix with Lovepreet on the date already fixed i.e. 11.03.2024. It was assured that she will be kept in the house only for one day and thereafter she will be left in the parental house and will be taken back on attaining majority. Under the said pressure and assurance, her mother had agreed to perform marriage with Lovepreet. After marriage, she was pressurized to stay in the matrimonial home. Marriage was consummated. During her stay in matrimonial home, Lovepreet, his uncle/*massad* Binder took her back and after reaching home Saravjeet, Sandeep and her husband Gurjeet started calling her by naming caste. She was being harassed and ill treated. False allegations were levelled against her. She was brought back in the parental house. Later-on it was told that marriage of Lovepreet has been performed with the girl who had earlier run away. At the time of lodging report, prosecutrix was five months pregnant. With these allegations, present FIR has been registered.

3. Learned counsel for appellant argued that FIR has been lodged on the basis of false and frivolous allegations. There was delay in lodging the report to the police. Family of prosecutrix projected her as major. No offence is made out under Section 3 (2) (v) of SC/ST Act. It is further stated in para No.6 of the grounds of appeal that complainant is married with brother of appellant and so far as alleged calling caste names was inside the house and not in any public view or before any public

person. Present appellant is a married lady having no concern with the matrimonial life of prosecutrix or Lovepreet. She is ready to join the investigation. Her anticipatory bail was wrongly declined by learned Additional Sessions Judge-cum-Special Judge Fast Track Court, Fatehabad vide order dated 07.11.2024 (Annexure P-1). It is prayed that aforesaid order may kindly be set aside and she may be granted the concession of anticipatory bail.

4. Appeal is opposed by learned counsel representing State. Detailed status report has been filed confirming the allegations as detailed in the FIR. It is pointed out that prosecutrix has levelled specific serious allegations against all the accused including the present appellant, who used to call her in the matrimonial home by naming caste. It is alleged that she was being harassed in the matrimonial home. Said statement of prosecutrix recorded under Section 183 of BNSS is Annexure R-1. MLR is Annexure R-2. It is pointed out that as per the certificate issued by Government Primary School, Japtewala (Annexure R-3), date of birth of prosecutrix is 17.04.2009. Specific role is attributed to the appellant/accused. Considering the provisions of SC/ST Act, 1989 anticipatory bail of appellant was rightly declined.

5. I have considered the arguments and have gone through the record. FIR has been lodged on the statement of prosecutrix against the appellant along with other accused under the provisions of Section 376 (2) (n) of IPC, Section 6 of POCSO Act, 2012, under Sections 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and Section 3(2) (v) of SC/ST Act, 1989. Learned counsel representing State referred to the statement of prosecutrix (Annexure R-1) which clearly shows specific allegations

against present appellant, calling prosecutrix by naming caste in the matrimonial home in the presence of other family members. Prosecutrix has also levelled specific allegations against main accused Lovepreet, his mother and other family members. It is not disputed that prosecutrix belonged to scheduled caste community. She was minor at the time of occurrence. As per Section 18 of SC/ST Act, 1989 provisions of Section 438 of Cr.P.C. are not applicable in relation to any case involving the arrest of any person on the acquisition of having committed an offence under this Act.

6. In light of this, learned ASJ has not committed any illegality or irregularity by dismissing the anticipatory bail filed by the appellant/accused vide order dated 07.11.2024 (Annexure P-1) and the same is accordingly upheld and appeal preferred by appellant/accused is accordingly dismissed.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

10.01.2025

snd

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No