



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

**CRA-S-2277-2024 (O&M)
Date of decision: 23.01.2025**

PROMILA

....PETITIONER

Versus

STATE OF HARYANA AND ANOTHER

...RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Rajesh Duhan, Advocate for
Mr. Sandeep Lather, Advocate
for the appellant.

Mr. Vipul Sherwal, AAG, Haryana.

Mr. Yash Goyal, Advocate for
Mr. Vishal Khatkar, Advocate for respondent No.2.

SANJIV BERRY, J. (ORAL)

The instant appeal has been preferred by the appellant against the order dated 12.06.2024 passed by learned Additional Sessions Judge, Hisar, whereby the application for grant of anticipatory bail to the appellant in case FIR (Annexure P-1) has been dismissed. Details of FIR are as under:

FIR No.	Dated	Sections	Police Station
115	10.03.2024	323, 506 of IPC and Section 3 (1) (s), 3(2) (va) of SC /ST Act and 325 of IPC added later on.	Hisar City, District Hisar.

2. Heard.

3. Learned counsel for the appellant contends that appellant is innocent and has been falsely implicated in this case. He contends that vide order dated 19.06.2024, the appellant had been directed to join



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investigation and was granted interim bail. He submits that in pursuance to the aforesaid order, the appellant has joined the investigation.

4. Learned State counsel intimates the Court that the appellant has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

5. Learned counsel for the complainant opposed the submissions made by learned counsel for the petitioner and prays for dismissal of the appeal.

6. During the course of hearing on 19.06.2024, following order was passed: -

“Learned counsel for the appellant inter-alia submits that appellant is a lady. She is having matrimonial dispute with her husband. She is living along with her 18 years old son on the second floor of the house and her husband is also residing in the said house. The complainant is working for her husband and the instant FIR was got registered at the instance of husband of the appellant in order to pressurize her to withdraw the execution petition filed for recovery of amount of maintenance to the tune of Rs.11,75,500/-. As per the version of FIR, the occurrence took place in the house where no other person was present. Provisions of SC/ST Act are not attracted at all.

Notice of motion.

Sh. Arun Beniwal, Sr.DAG, Haryana appears and accepts notice on behalf of respondent-State. Mr. Mohit Kakkar, Advocate appears and accepts notice on behalf of the complaint-respondent No.2. He has filed his power of attorney and the same is taken on record.

Learned State counsel as well as learned counsel for the

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complainant opposed the appeal on the ground that appellant was having knowledge about the caste of the complainant. The appellant hurled abuses in the name of the caste of the complainant. Provisions of SC/ST Act are attracted and there is a bar under Section 18, 18-A (2) of the SC/ST Act, so appellant is not entitled for anticipatory bail. Reliance has been placed upon judgment titled as Abbas R.V Vs. State of Kerala and another passed by High Court of Kerala at Ernakulam in CRL.A.No. 937-2022 decided on 23.09.2022

No doubt that Section 18, 18-A of the SC/ST Act envisaged that provisions of Section 438 of Code of Criminal Procedure shall not apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under the SC & ST Act but the Court has to prima facie conclude that offence under the provisions of SC/ST Act is made out or not. The allegation against the appellant is that she uttered words in the name of the caste of the complainant and said occurrence had taken place inside the house and not within the public view.

It is debatable if provisions of SC/ST Act are attracted. Reliance is placed on case Gorige Pentaiah v. State of A.P. & Others, 2008(4) R.C.R. (Criminal) 171.

Adjourned to 31.07.2024.

Since it is debatable that provisions of SC/ST Act are attracted in this case so in these circumstances the appellant is ordered to join investigation as and when called by SHO/Investigating Officer and in the event of her arrest, she shall be released on interim bail on her furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438 (2) Cr.P.C.:-

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(i) that the appellant shall make herself available for interrogation before the investigating officer as and when required:

(ii) that the appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade her from disclosing such facts to the Court or to any police officer;

(iii) that the appellant shall not leave the country without prior permission of the Court concerned.

Status report be filed on or before the next date of hearing with an advance copy to the counsel opposite.

7. After considering the rival contentions and perusing the record, it transpires that the appellant has been implicated in the instant FIR for having committed offence punishable under Section 3 (1) (s) and 3(2) (va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act 1989. At the same time, it is not disputed that the appellant, after having been directed vide order dated 19.06.2024, 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 appellant vide order dated 19.06.2024 is hereby confirmed subject to the conditions as envisaged under Section 482(2) BNSS. The appellant 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; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

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8. With these observations, the impugned order dated 12.06.2024, passed by learned Additional Sessions Judge, Hisar, is set aside and the instant appeal stands allowed.

9. Pending application(s), if any, also stand disposed of.

(SANJIV BERRY)
JUDGE

23.01.2025

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