

**IN THE COURT OF SH.AVTAR SINGH, ADDITIONAL
SESSIONS JUDGE, S.A.S. NAGAR, (MOHALI). (UID
NO.PB00086)**

B.A. CIS no.2125 of 2024
CNR No. PBSA01-005238-2024
Decided on.13.08.2024

Triveni Sabharwal @ Triveni Bakshi aged about 36 years wife of Govind
Singh, resident of 106/AD Gandhi Nagar, Tehsil and District Jammu.

.....Accused/applicant.

Versus.

State of Punjab

.... Respondent.

FIR No. 87 dated 01.04.2016
U/s. 341, 323, 506, 34 of IPC & Section 3 (1) (X) of
the SC/ST Act,
P.S. City Kharar, District SAS Nagar

Bail application under Section 438 Cr.P.C.

Present: Sh. G.S. Dhaliwal, Adv, counsel for accused/applicant.
Sh. H.S.Romana, Addl. PP for the State
Sh. Avtar Sidhu, Adv, counsel for the complainant.

ORDER:-

1. This order of mine shall dispose of bail application filed by
accused/applicant seeking anticipatory bail in terms of Section 438 Cr.P.C.
arising out of above said FIR.

As per report of concerned Ahlmad, nothing is pending/decided
against applicant in the present FIR in Hon'ble Punjab and Haryana High
Court, Chandigarh.

2. Notice of bail application was issued to the State and learned
Addl. PP for the State has put in appearance. Sh. Avtar Sidhu, Advocate

put in appearance on behalf of the complainant. Record of investigation received.

3. I have heard the learned Counsel for accused/applicant, learned Addl. PP for the State, learned counsel for the complainant and also perused the record.

4. The brief facts of the prosecution story in nutshell are that the present FIR was recorded on the statement of complainant Lakwinder Singh son of Sucha Singh. He stated that he belongs to Scheduled Castes and he was working as Accountant/Muneem at Bhamia Traders, Khamanoo Commission Agent. On 12.05.2016 at about 06:00 PM, Pavitter Singh called him and took him to Rajeshwar Sabharwal son of Om Parkash Sabharwal who used to come on the shop of commission agent to fetch the articles. The account between the parties has to be settled but Rajeshwar Sabharwal, Triveni, Gobinder were present there. Kulwant Singh, Sarpanch/Headman was also present there. the parties started settling the account. Meanwhile, Rajeshwar Sabharwal lost his temper and he told the complainant that his audit is not proper and he wants to settle the account again. He was not agree with the complainant. When the complainant tried to came out of the house, then Rajeshwar Sabharwal, his daughter, Kuldeep Singh encircled him. Gobind was holding iron rod in his hand and he gave the blow of iron rod on the backside and on the shoulder. Rajeshwar Sabharwal and Triveni and Kuldeep Singh gave the beatings to the complainant. He raised raula Maar Ta Maar Ta. Then Headman/Sarpanch and Pavitter Singh rescued the complainant from the clutches of the accused. They used the derogatory

words against the caste of the complainant. The complainant was rushed to Civil Hospital, Kharar. Accordingly, offence was made out under Sections 341, 323, 506, 34 of IPC & Section 3 (1) (X) of the SC/ST Act.

5. Learned counsel for the applicant/accused has argued that accused has been falsely implicated in the present case and there is no specific allegations that accused/applicant used the derogatory words against the caste of the complainant. Moreover, the complainant is notorious person and various FIRs has been registered against him. The matter was settled between the parties. The parties went to the Hon'ble High Court for quashing the FIR. Accused is ready to join the investigation. He be granted bail.

6. On the other hand, the learned Addl. PP for the State assisted by the learned counsel for the complainant have argued that there are specific allegations against the accused that accused used the derogatory words against the caste of complainant. Beatings was also given to the complainant knowingly that he belongs to scheduled caste.

Learned Addl. PP for the state assisted by learned counsel for the complainant argued that the petition under Section 482 of Cr.P.C., has been dismissed by the Hon'ble High Court. It is an admitted fact that the petition has been dismissed. They further argued that the bail application under Section 438 of Cr.P.C. is not maintainable as provided under Section 18 of the Scheduled Castes and Scheduled Tribes Act (Prevention of Atrocities), 1989, so the present bail application should be dismissed.

7. From the submissions of learned counsel for the accused/applicant, learned Addl. PP for the state, learned counsel for the

complainant and from the police file, it is clear that there are specific allegations against the accused that accused gave the beatings to the complainant. Thereafter, they used the derogatory words against the caste of the complainant.

The submissions of the learned counsel for the accused/applicant that various FIR has been registered against the complainant but this fact will not waived off the legal criminal liability of the accused as there are specific allegations that accused used the derogatory words against the caste of the complainant. The eye witness namely Pavitter Singh and Headman/Sarpanch was also present at the time of incident. As provided under Section 18 of the Scheduled Castes and Scheduled Tribes Act (Prevention of Atrocities), 1989, the application under Section 438 of Cr.P.C. is not maintainable.

8. Thus, keeping in view the facts and circumstances mentioned above as well as in view of the seriousness of allegations against the accused/applicant and gravity of the offence, no exceptional circumstance for grant of anticipatory bail to the accused/applicant is made out and accordingly, the bail application is hereby dismissed. Record of investigation be returned. File be consigned to the record room.

Pronounced:
13.08.2024

(Avtar Singh)
Addl. Sessions Judge,
S.A.S. Nagar, (Mohali).
(UID no. PB00086)

Bhupinder Singh
Stenographer-II