

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-1339-2022(O&M)
Date of decision : 03.08.2022

Jitender Jatasra

... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Pardeep Kumar Rapria, Advocate
for the appellant.

Mr. Dhruv Shah, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST Act) against the order dated 11.05.2021 passed by the Additional Sessions Judge, Charkhi Dadri in FIR no.87 dated 22.04.2021 registered under Sections 153-A(1), 504, 505(2), 120-B IPC, Section 3(1)(r), 3(1)(u) of the SCST Act and Section 71 of the Information Technology Act, vide which the regular bail application of the appellant has been rejected.

Learned counsel for the appellant has submitted that the appellant was arrested on 05.05.2021 in the above said FIR and was granted interim bail by a coordinate Bench of this Court vide order dated 30.11.2021 passed in CRM-M-23641-2021 (Annexure A-4) and thereafter the appellant had withdrawn earlier petition under Section 482 Cr.P.C. read with Section 439 Cr.P.C. with liberty to file the present appeal under Section 14-A of the SCST Act. It is further submitted that the appellant has

again surrendered before police authorities as the earlier petition had been withdrawn with liberty to file present appeal. It is argued that a perusal of the FIR would show that the appellant is not named in the same and the alleged video clip has been made by one Rahul in which he had made some comments against the Superintendent of Police. It is further submitted that the said Rahul, who is the main accused, has already been granted regular bail by a coordinate Bench of this Court vide order dated 10.03.2022 passed in CRM-M-4401-2022. It is submitted that it is not even the appellant, who has sent the said video to the complainant ASI Jora Singh as the mobile phone mentioned in the FIR does not belong to the present appellant. It is also submitted that the only allegation levelled against the appellant is that he has shared the video on Facebook (social media). It is stated that even as per the FIR, it has not been mentioned that the present appellant had knowledge that the said Superintendent of Police belonged to the scheduled castes and thus, no offence against the appellant is made out. It is also argued that the Superintendent of Police has not even got an FIR registered and the FIR in question has been registered by ASI Jora Singh against whom no remarks have been made and therefore, said ASI Jora Singh does not have locus standi to get the present FIR registered. It is submitted that the challan has been presented and thus, no purpose would be served by keeping the appellant in further incarceration.

Learned State counsel, on the other hand, has opposed the present appeal and has submitted that the appellant had uploaded the video which was made by Rahul on his Facebook account and even commented on it.

This Court has heard learned counsel for the parties and has

perused the paper book.

The appellant was arrested on 05.05.2021 and thereafter had applied for regular bail by filing a petition under Section 439 Cr.P.C. read with Section 482 Cr.P.C. In the said case, a coordinate Bench of this Court vide order dated 30.11.2021, was pleased to observe that in the present case the complaint had got registered by ASI Jora Singh against whom nothing was uttered in the video whereas the alleged victim, i.e., the Superintendent of Police, has not even filed any complaint. It was also observed that the role of the appellant, at best, is of the person who had circulated / uploaded the video whereas the person, who had allegedly made the video, is Rahul. The earlier bail application filed by the petitioner had to be withdrawn in view of the bar under Section 14A(2) of the SC/ST Act and accordingly, was withdrawn on 20.07.2022 with liberty to file the present appeal. It has been stated by the appellant that he had surrendered and has been in custody since and the main accused Rahul has already been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 10.03.2022 passed in CRM-M-4401-2022 and the investigation is complete and the challan has been presented and no purpose would be served by keeping the appellant in further incarceration.

Keeping in view the above said facts and circumstances, the present appeal is allowed and the appellant is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently

of the observations made in the present case which are only for the purpose of adjudicating the present appeal.

Pending miscellaneous applications, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

August 03, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No