

CRM No. M-30185 of 2020 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-30185 of 2020 (O&M)
Date of decision : November 02, 2020

Mandeep

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Randeep S. Dhull, Advocate, for the petitioner
Mr. Baljinder Virk, DAG Haryana

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

In compliance with orders dated 26.10.2020, the State has placed on record reply by way of affidavit of Sh. Ashok Kumar, HPS, Deputy Superintendent of Police, Headquarters, Hisar.

The allegations against the petitioner in this first anticipatory bail under Section 482 read with Section 438 Cr.P.C. in case FIR No. 450 dated 15.6.2020, under Section 3(i)(v) of the

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station HTM, Hisar are as follows:-

“It is alleged that the petitioner danced in a tiktok video with background song composed by deceased Pandit Jagdish Chander Vats 40/50 years ago which is sung as Ragini. The complainant has claimed that this song has hurt the sentiments of the SC/ST castes leading to the registration of this case.”

Learned counsel for the petitioner inter-alia contends that the petitioner has merely danced on the tune of the song and neither is the author/composer nor did any act to hurt the feelings of the caste in question and that nothing is to be recovered.

The learned State counsel does not displace the factual position but has strongly opposed the bail on the grounds that under the mandatory provisions of SC/ST Act, no anticipatory bail can be granted to the accused-petitioner.

Appreciating the submissions, admittedly the petitioner is neither the author/composer nor prepared the music of the song which was composed more than 40/50 years ago by the person who has since died. To the specific query of the Court how mere dancing on the tune of a song and preparing a video hurts the sentiments of

the particular caste is a question which is debatable and can only be adjudicated at the time of trial. Nothing is to be recovered from the petitioner. The applicability of provisions of Section 3(i)(v) of the SC/ST Act would only be adjudicated thereafter. It would be a travesty of justice to send the petitioner behind the bars.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioner is directed to join investigation within 15 days of the receipt of the copy of order.

The present petition stands disposed of.

November 02, 2020

'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No