

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

**CRM-M-1185 of 2015 (O&M)
Date of decision: April 01, 2015**

Bhola Singh (Fauji) and others

.... Petitioners

Versus

Parkash Kaur and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. H.S. Batth, Advocate,
for the petitioners.

None for respondent No.1.

Mr. J.S. Sekhon, AAG, Punjab,
for respondent No.2-State.

Jaspal Singh, J.(Oral)

Instant petition has been preferred under Section 438 of the Code of Criminal Procedure (for brevity, 'Code') by Bhola Singh and others-petitioners, feeling apprehension of their arrest, in a complaint case No. 30, dated 26.10.2010, in which they have been summoned to face trial under Sections 295-A, 325, 427 and 506 read with Section 34 of the Indian Penal Code as well as under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act 1989 (for short, 'Act of 1989').

2. Since, petitioners have been summoned to face trial in a complaint case, their custodial interrogation is not required. Moreover, there is debatable question, whether provisions of Section 3 of the Act

of 1989 are attracted in the facts and circumstances of case in hand or not. So, in such situation, bar created by Section 18 of the Act 1989 with regard to non-applicability of Section 438 of the Code also becomes a debatable question.

3. Without expressing any opinion on merits and considering the above said aspects of the case, this Court is of a considered view that it would not be desirable to send petitioners behind bars. Accordingly, petition is allowed with directions to petitioners to appear/surrender before trial court and apply for bail and trial court is directed to release them on bail at its satisfaction.

April 01, 2015
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(JASPAL SINGH)
JUDGE