

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

**CRM-M No.43629 of 2014
Date of decision : 19.10.2015**

Ram Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.S.Dhandi, Advocate for the petitioner.
Ms.Amarjit Kaur Khurana, Addl.AG, Punjab.
Mr.G.S.Randhawa, Advocate for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a petition for anticipatory bail filed in case bearing FIR No. 227 dated 10.12.2014, under Sections 3/4 of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989 and Section 506 of the Indian Penal Code, registered at Police Station Sadar Jagraon, District Ludhiana Rural.

On 22.12.2014 the following order was passed:-

“ Learned counsel for the petitioner contends that no offence punishable under Section 3/4 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 506 IPC is made out qua the petitioner. The genesis of this complaint is a dispute between petitioner and his brothers Gurdev Singh and Daya Singh. Their mother is residing with the petitioner. Complainant –

Gurmail Kaur is a domestic help and is now working for his brother – Daya Singh.

Notice of motion to Advocate General, Punjab for 30.01.2015.

In the meanwhile, petitioner shall appear before the Investigating Officer within the next ten days and join investigation. In the event of his arrest, he shall be released on interim bail by the Arresting/Investigating Officer to his satisfaction. He shall fully cooperate in the investigation of this case. The petitioner shall comply with the conditions stipulated in Section 438(2) Cr.P.C.”

On 30.01.2015 the following order was passed:-

“Learned counsel for the State, on instructions from Karamjit Singh, submits that petitioner has joined investigation. However, he is not entitled to the concession of anticipatory bail keeping in view the specific bar created by the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the complainant submits that the petitioner is pressurizing and threatening the complainant. An application dated 27.01.2015 has been moved by the complainant, Gurmail Kaur to Senior Superintendent of Police, Ludhiana.

Learned counsel for the petitioner has vehemently denied the said allegations and submits that the complainant being a domestic help is, in fact, under the influence of his brother – Daya Singh.

Learned counsel for the State prays for some time to verify the above said complaint/application moved by the complainant.

On his request, adjourned to 26.03.2015.”

Learned counsel for the petitioner has argued that even though there may be a bar for grant of anticipatory bail, yet the fact remains that the petitioner has now been on bail for a period of one year and no recovery is to be made and, therefore, the interim order should be extended.

Learned counsel for the complainant and learned AAG have,

however, argued that once the bail granted was ex facie against the

proceedings of the Act, it cannot be extended.

In **Vilas Pandurang Pawar V. State of Maharashtra,**

(2012) 8 SCC 795 the Hon'ble Supreme Court held as follows:-

“8) Section 18 of the SC/ST Act creates a bar for invoking Section 438 of the Code. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has been *prima facie* made out. In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.

9) The scope of Section 18 of the SC/ST Act read with Section 438 of the Code is such that it creates a specific bar in the grant of anticipatory bail. When an offence is registered against a person under the provisions of the SC/ST Act, no Court shall entertain application for anticipatory bail, unless it *prima facie* finds that such an offence is not made out. Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. Court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the Special Act to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence.”

In the present case the argument of the petitioner is that the complainant is the domestic servant of his brother with whom he has dispute and it is at the instance of his brother that this false complaint has been registered. On the other hand there are specific averments of insult and intimidation with intent to humiliate by calling with caste name. In the circumstances it is not possible for this Court to come to the conclusion that *prima facie* the offence is not made out.

Consequently the petition for the grant of anticipatory bail

is dismissed.

Since the main case has been decided, the Criminal Misc.
Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

October 19 , 2015
sunita