

CRM-M-17029-2016 (O&M)

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

**CRM-M-17029-2016 (O&M).
Decided on: May 17, 2016.**

Balkar Singh

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.D.S.Kahlon, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

Petitioner is a complainant in a case registered against respondent Nos.2 to 5 on the allegation that on 10.9.2014, when the complainant- petitioner was present in the house, Dilbagh Singh, Amarjit Singh, Tarlok Singh, Kashmir Singh and Sarabjit Kaur armed with dangs and sotas came to their house and gave beatings to him, his wife and father in law Surjit Singh and also spoke against caste of the complainant. They committed theft of household articles and forcibly occupied the house.

Learned Additional Sessions Judge, Amritsar, in order dated 23.2.2015, while granting concession of interim bail to the private respondents observed that the offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, if any, would not be prima facie attracted as the insult

or intimidation was not within the public view.

Respondents Tarlok Singh and Dilbagh Singh have been granted concession of pre-arrest bail and thereafter, challan has been presented and charges have been framed.

Counsel for the petitioner has submitted that the trial Court has framed charges in certain offences which were not originally mentioned in the FIR, as such, bail of respondent Nos.2 to 5, is required to be cancelled.

I have heard the counsel for the petitioner and gone through the paper book carefully. There is no allegation in the present petition that liberty granted to respondent Nos.2 to 5, has, in any manner, been misused by them warranting cancellation of the pre-arrest bail granted by the trial Court.

This petition also deserves to be dismissed on another ground of petitioner having not filed any petition under Section 439 (2) Cr.P.C., before the Sessions Court at the first instance as the said Section provides a remedy to the petitioner to file a petition before the Sessions Court also.

Counsel for the petitioner has further argued that despite the bar to grant pre-arrest bail created by the provisions of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the Additional Sessions Judge, Amritsar, has wrongly granted the concession of pre-arrest bail.

I have considered said contention also and gone

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through the order dated 28.3.2015 and order dated 18.4.2015 by virtue of which the respondent Nos.2 to 5, have been granted interim bail and later on order stood confirmed. A perusal of order dated 28.3.2015, indicates that after going through the nature of the allegations and the evidence of occurrence, the Additional Sessions Judge, Amritsar, has arrived at a conclusion that prima facie offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, was not made out as the occurrence has taken place inside the premises of the residential house and was not within public view.

In view of said circumstances, I do not find any ground to cancel the bail granted to respondent Nos.2 to 5. The petition is dismissed. However, in the interest of justice, it is observed that any thing said in the order passed by the Additional Sessions Judge, Amritsar, or by this Court, will not, in any manner, prejudice the adjudication of the case of the petitioner on merits.

May 17, 2016.
rka

(M.M.S. BEDI)
JUDGE