

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

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CRM-M-30782-2015

Date of Decision: January 12, 2016

SURESH KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA & ORS

.....RESPONDENTS

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

Present: Mr.J.S.Saneta, Advocate for the petitioner

Mr.Sanjeev K.Sharma, Advocate for
Mr.Kamal Kant Aggarwal, Advocate the respondent No.3.

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

Vide order dated 10.8.2015 the learned Additional Sessions Judge, Kurukshetra granted concession of pre-arrest bail to the private respondents, taking into consideration the provisions of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, for short the Act”, and the requirement of Section 3 of the said Act. The said Court has relied upon the judgment of “Saroj Kumari v. State of Haryana, 2001 SCC Online P&H 1373” permitting bail in a case where the complainant has not mentioned in the complaint that he was scheduled caste or the said fact was known to the accused. Petitioner has sought cancellation of bail by way of this petition.

Counsel for the petitioner has relied upon judgments of Apex Court in “Vilas Pandurang Pawar and another v. State of Maharashtra and others, 2012(4) RCR (Criminal) 761” and “Bachu Das v. State of Bihar and others, 2014(1) RCR (Criminal) 975” holding that the provisions of Section 18 of the Act can not be easily brushed aside while considering the application for anticipatory bail under Section 438 of the Code of Criminal Procedure. In both the cases relied upon by the counsel for the petitioner,

the Apex court has emphasised the bar under Section 18 of the Act for the purpose of Section 438 of the Code of Criminal Procedure and laid down that a duty is cast upon the Court to verify the averments in the complaint and find out whether offence under Section 3(1) of the Act has been prima facie made out.

The judgment of Delhi High Court granting anticipatory bail was declared to be not a precedence for grant of pre arrest bail.

I have gone through the ratio of the judgments cited by counsel for the petitioner; the order passed by the learned Additional Sessions Judge, Kurukshetra and I am of the opinion that there is no scope for cancelling the bail at this stage, when there is no allegation of accused having misused the liberty or having tampered with the evidence.

The expression of opinion on merits has been avoided lest, it should cause prejudice to the complainant or to the accused during the trial.

In view of above said circumstances, the petition is dismissed.

January 12, 2016
TSG

(M.M.S.BEDI)
JUDGE