

**CRM No. M-33161 of 2016**  
**DECIDED ON: SEPTEMBER 19, 2016**

....PETITIONERS

# VBERSUS

.....RESPONDENT

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present: Mr. Amandeep Singh Manaise, Advocate  
for the petitioners.

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**JASPAL SINGH, J (ORAL)**

By virtue of instant petition preferred under Section 438 Cr.P.C petitioners have sought pre-arrest bail in a complaint case bearing No. 39 dated 10.04.2013 (Annexure P-1) filed under Section 3(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989) (for short 'Act') read with Sections 323 and 506 IPC wherein, they have summoned to face trial vide order summoning order dated 16.02.2016.

The contention of learned counsel for the petitioners is that allegations levelled in the complaint are false and baseless. Otherwise also no offence either under Section 3(x) of the Act or under Sections 323 and 506 IPC is made out. Petitioner No.1 is a government employee working in PSPCL whereas petitioner No.2 who is the wife of petitioner No.1 is also working as Lecturer in Government School, Verka, Amritsar. The complainant was never engaged or employed by either of them for removing malba or chowkidari. But at the instance of Sanjeev Sharma @ Sandeep Sharma who is nursing grudge

against the petitioners, a complaint has been lodged by concocting a false story. In fact, the building of the Hotel Ishita Residency is being constructed by Shivani Sharma wife of Sanjeev Sharma @ Sandeep Sharma in violation of the various Rules and Regulations of the Municipal Corporation and in this regard a representation (Annexure P-2) was also made by the residents of the area including Gurcharan Singh, to the Commissioner, Municipal Corporation, Amritsar. The said Sanjeev Sharma @ Sandeep Sharma felt that an obstruction is being created by the petitioners, who by bringing forward a complainant got lodge a false complaint. Moreover, petitioners are ready to join the proceedings and abide by all the terms and conditions imposed by this Court in case they are granted the concession of pre-arrest bail.

This Court has given an anxious thought to the submissions made by learned counsel for the petitioners and has perused the record available on file.

A close scrutiny of the complaint reveals that derogatory and ugly remarks pertaining to the caste of the complainant have been made by the petitioners and only on the basis of those allegations they have been summoned to face trial. Moreover, at this stage no opinion can be expressed that a *prima facie* case is made out or not in view of the allegations levelled in the complaint and in view of preliminary evidence adduced before the Court on the basis of which petitioners have been summoned to face trial. Moreover Section 18 of the Act completely makes the provisions contained in Section 438 Cr.P.C, inapplicable. It would be relevant to re-produce Section 18 of the Act, which reads as under:

*“Nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”*

In view of the bar created by Section 18 of the Act and also in view of the allegations contained in the complaint a *prima facie* case is made out against the petitioners. Thus, this Court does not deem it a fit case to extend the concession of pre-arrest bail to the petitioners.

Dismissed.

SEPTEMBER 19, 2016  
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(JASPAL SINGH)  
JUDGE

*Whether Speaking/Reasoned*      *Yes/No*

*Whether Reportable*                      *Yes/No*