

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

**CRM-M No.17430 of 2017
Date of Decision : 26.07.2017**

Jai Singh and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Sanjay Verma, Advocate
for the petitioners.

Mr. D.R. Singla, Deputy Advocate General, Haryana
for respondent No.1-State.

Mr. A.S. Virk, Advocate
for the complainant/respondent No.2.

SUDIP AHLUWALIA, J. (ORAL)

FIR against the petitioners was originally lodged under Sections 323, 506/34 of the IPC (Annexure P-1). Subsequently, offences under Section 325 IPC and Section 3(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added.

Perusal of the entire text of the FIR as the original FIR in vernacular (Page 22-23) however, does not reveal the application of these offences even remotely in the case. This is so because it is seen that except for mentioning the caste of the complainant essentially for the purpose of his identification, there is no allegation whatsoever anywhere in the FIR that the petitioners were aware of such caste or that such caste of the complainant was at all a factor in the alleged occurrence.

For the aforesaid reasons, this Court is of the opinion that a bar to entertain the petition under Section 438 Cr.P.C. in terms of Section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not applicable in the present case.

Admittedly, the other newly added Section 325 IPC is bailable and the petitioners were already on bail in relation to the original Sections under which the FIR was drawn up.

For the aforesaid reasons, they are at liberty to surrender before the Ld. Trial Court which will thereafter for the aforesaid reasons, they are ordered to be released on anticipatory bail to the satisfaction of the Ld. Trial Court concerned.

Disposed of.

July 26, 2017
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No