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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

\*\*\*\*

CRM-M-30701-2017  
Date of Decision: 01.12.2017

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Aman Kasnia and another

..... Petitioners

Versus

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. C.M. Munjal, Advocate,  
for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

**SUDIP AHLUWALIA J. (ORAL)**

Matter taken up for hearing.

[2]. Ld. Counsel for the petitioners *inter alia* contends that one necessary ingredient to constitute the offence under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act') in the present case is squarely missing in the FIR. That particular ingredient happens to be the non-specification of the offenders' own caste as also absence of a specific averment that they themselves do not belong to the Scheduled Castes and Scheduled Tribes. On perusal of the aforesaid FIR, it is verified that in respect of the present two petitioners alone, there is no reference to the respective Caste or Tribe to which they belong, nor any averment to the effect that they are not members of the Scheduled Castes and Scheduled Tribes. Of course, castes of certain other offenders such as Bhagirath and Pawan Kumar have been specified which would at least *prima facie* go to indicate that those offenders do not

belong to the Scheduled Castes or Scheduled Tribes. Even the caste of the another offender, namely, Baljit Singh seems to have been specified in the original vernacular of the FIR.

[3]. As such, the case of the petitioners would appear to be covered by the decision of the Hon'ble Supreme Court in “**Gorige Pentaiah Vs. State of A.P. and others**” 2008 (4) R.C.R. (Criminal) 171, wherein proceedings against the appellants under the Act were ordered to be quashed since neither their caste was specified in the original FIR nor it was averred that they were not members of the Scheduled Castes or Scheduled Tribes.

[4]. To that extent, therefore, the bar under Section 18 of the Act would not appear to apply with the present petitioners as one necessary ingredient to constitute the offences is seen to be missing qua them.

[5]. Consequently, the petitioners are ordered to be released on anticipatory bail to the satisfaction of Arresting/Investigating Officer subject to compliance of their required formality under Section 438(2) of the Cr.P.C.

**01.12.2017**

*Bhumika*

**(SUDIP AHLUWALIA)  
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No