

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

Crl. Misc. No. M-9216 of 2018

Date of Decision: 06.03.2018

Jaswinder Singh and another

.....Petitioners

vs.

State of Punjab and another

.....Respondents

BEFORE:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Vikram Bali, Advocate,
for the petitioners.

SUDHIR MITTAL, J. (Oral)

The petitioners seek grant of anticipatory bail in complaint No.COML/11/2016 dated 7.1.2016 filed under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 323, 500 and 506 IPC. The contents of the complaint reveal that the petitioners are accused of abusing the complainant in a public street with reference to his caste. Thereafter, the complainant was assaulted.

Learned counsel for the petitioners contends that the complaint is a counter-blast to a case under Section 138 of the Negotiable Instruments Act, 1881 filed against the wife of the complainant and that being a complaint case, there is no investigation involved, which entitles the petitioners to grant of anticipatory bail. Reliance has also been placed on judgments of this Court passed in the cases of **Harpal Singh vs. Manjit Kaur, 2015 (9) RCR (Criminal) 202**, **Bikramjit Singh vs. Harpal Singh, 2013 (7) RCR (Criminal) 2809** and **Om Parkash Sharma vs. Union Territory, Chandigarh, 2001 (3) RCR (Criminal) 840**.

The contentions of learned counsel for the petitioners do not appeal to the Court. The case under Section 138 of the Negotiable Instruments Act, 1881 was filed in the year 2011, whereas, the present complaint has been filed in the

year 2016. The time gap itself does not support the contention of the learned counsel for the petitioners. Regarding the present case being a complaint and entitling the petitioners for grant of anticipatory bail is not an absolute proposition of law. The judgments relied upon are also distinguishable on facts.

Suffice it to say that Section 18 of the SCST Act bars the grant of anticipatory bail. Various Courts have interpreted the said provision and have held that the bar provided under the said provision would not operate in case *prima facie* offence is not made out or any ingredients of the offence are missing. That is not the situation in the present case and, therefore, no right accrues in favour of the petitioners.

In view of the above, the petition is without any merit and is accordingly dismissed.

March 06, 2018
poonam

(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned : Yes

Whether Reportable : No