

Sr.No.101

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

CRM-M-51696-2019

Date of decision:17.12.2019

Maingal Singh

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. P.K.S.Phoolka, Advocate
for the petitioner.

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in FIR No.143, dated 26.09.2019 registered under Section 3(1)(r)(s) of SC & ST Act, (Prevention of Atrocities) Act, 1989 (Amendment Act) (hereinafter referred to as 'the Act') and Section 506 of IPC at Police Station Nehianwala, District Bathinda.

Learned counsel for the petitioner has argued that false FIR has been registered against the petitioner and that the present FIR is a classic example of misuse of provisions of the Act in order to settle the personal grudges by the complainants. He has further submitted that there is delay of 07 days in lodging the FIR which stands unexplained.

After hearing learned counsel for the petitioner and perusing the case file, it can be seen that the present FIR has been lodged under Section 3(1)(r)(s) of the Act and the present petition has been filed under Section 438 Cr.P.C.

A perusal of newly inserted Section 18-A of the Act creates a bar for entertaining the petition under Section 438 Cr.P.C in such like

cases. The relevant provision is reproduced as under:-

“(1) For the purpose of the PoA Act:-

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for arrest, if necessary, of any person, against whom an accusation of having committed an offence under the PoA Act has been made and no procedure other than provided under the PoA Act or the Code of Criminal Procedure, 1973, shall apply.

(2) The provision of Section 438 of the Code shall not apply to a case under the Act, notwithstanding any judgment or order or direction of any Court.”

In view of the specific provision contained in Section 18-A (2) of the Act, present petition is therefore, not maintainable and the same is hereby dismissed.

17th December, 2019

Shivani Kaushik

**[JASGURPREET SINGH PURI]
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>