

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

**CRM-M No.41147 of 2021
Date of Decision: 07.12.2021.**

Balkar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Dilpreet Singh Gandhi Advocate,
for the petitioner.

Ms. Samina Dhir, Deputy Advocate
General, Punjab.

Mr. Vikas Gupta, Advocate,
for the complainant.

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MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case arising out of the FIR bearing No.108 dated 14.09.2021 registered at Police Station Tarsikka, District Amritsar, under Sections 380, 452, 435, 365 IPC and Sections 3(2) (iii) and 3(G) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC/ST Act”), the petitioner has preferred this petition for seeking the relief of anticipatory bail.

2. Bereft of unnecessary details, the facts culminating in the registration of the subject FIR, are that complainant-Ranjit Singh moved a written complaint to the police alleging therein that his son Amandeep Singh was the student of the daughter of the petitioner named Gurpreet Kaur. On 26.06.2021, his son was called by and had gone to meet his said

teacher but he did not return home thereafter. He feared that the family members of the said teacher could kill his son.

3. Status-report has already been filed on behalf of the respondent -State by way of the affidavit of the Deputy Superintendent of Police, Sub-Division Jandiala, Amritsar (Rural).

4. I have heard learned counsel for the petitioner as well as learned State counsel (assisted by learned counsel for the complainant) in the present petition and have also perused the file thoroughly.

5. Learned counsel for the petitioner has contended that from the allegations as levelled by the complainant against the petitioner, no offence under the SC/ST Act is made out and therefore, Section 18 of the said Act, which creates a bar for the grant of the relief of anticipatory bail qua the offences under this Act, is not applicable to the instant case and even otherwise, the petitioner has been falsely implicated in this case and hence, he deserves the relief as sought in this petition. He has placed reliance upon the observations as made by Hon'ble Supreme Court in **Dr. Subhash Kashinath Mahajan vs. The State of Maharashtra and Anr., Criminal Appeal No.416 of 2018 (Arising out of Special Leave Petition (Crl.) No.5661 of 2017 Decided on 20.03.2018; Prathvi Raj Chauhan vs. Union of India & Ors. Civil Writ Petition (C) No.1015 of 2018 Decided on 10.02.2020** and by Madurai Bench (SB) of Madras High Court in **Dr. S. Ariharan & Anr. vs. The Inspector of Police & Anr. Crl. OP (MD) No.17224 of 2019 Decided on 26.11.2019** as well as by this Court in **Keshav vs. State of Haryana CRM No.M-18283 of 2019 (O&M) Decided on 23.05.2019 (SB)** and **Gura Singh vs. State of Haryana CRM-M**

No.7569 of 2017 (O&M) Decided on 30.01.2018 (SB), in support of his contentions.

6. Per-contra, learned State counsel (assisted by learned counsel for the complainant) has argued that the complainant and his family who, concededly, belong to the Scheduled Caste, were constrained to leave the Village due to the threats as extended to them by the petitioner and his family members, who belong to Jat Community and in their absence, their motor-cycle was stolen and the bed-mattresses in their house were burnt and in these circumstances, the provisions of the SC/ST Act are attracted in the present case and hence, the bar qua the relief of anticipatory bail, as envisaged under Section 18 of the said Act, would also be applicable and it being so, the present petition be dismissed.

7. In **Dr. Subhash Kashinath Mahajan (supra)** and **Prathvi Raj Chauhan (supra)**, the Apex Court has observed that there is no absolute bar against the grant of anticipatory bail and if the complaint does not make out a prima-facie case for the applicability of the provisions of the Act of 1989 or where on judicial scrutiny, it is found to be prima-facie malafide, the bar created by Section 18 shall not apply. In view of these observations, this Court is supposed to ascertain as to whether a prima-facie case under the provisions of the SC/ST Act is made out from the allegations levelled in this case or the same are malafide ones.

8. It is pertinent to mention here that it has categorically been mentioned in the police proceedings recorded in the FIR (Annexure P-1) itself that the SHO concerned had conducted the enquiry in respect of the written complaint as moved by the complainant and had reported that the

petitioner went to the house of the complainant and abused him in anger and resultantly, the complainant and his family members left the Village out of fear and they were spending time in different Gurdwaras for the last 2-3 months and that the complainant had also moved a complaint to the Commission for the Scheduled Castes alleging therein that he belonged to Majhbi Sikh Community and was being harassed by the petitioner and his family members who belonged to Jat Caste and on 27.08.2021, the members of the Commission had visited the Village and on the same day, the complainant, also returned to his house along-with his wife and he found that his motor-cycle was missing and the bed-mattresses had been burnt.

9. Further, in Para 5 of the Status-report, it has specifically been deposed that Rashpal Singh, a close relative of the petitioner, had produced the above-said stolen motor-cycle while disclosing that it had been given to him by the petitioner for handing over the same to the police. In Para 6 therein, it has further been deposed that during the visit of the members of the above-said Commission to the Village, it was revealed that the petitioner had abused the complainant and had forced him and his family members to leave the Village and thereafter, he had burnt the house-hold articles lying in the house of the complainant. The above-discussed facts and circumstances prima-facie attract the offence under the SC/ST Act and therefore, the rigour of Section 18 of the said Act which debars the offender from seeking the relief of anticipatory bail, is applicable to this case and hence, the petitioner cannot be extended the said relief. Even otherwise, in view of the gravity of the offence, as alleged to have been committed by

him, he does not deserve the said relief.

10. The observations, as made in **Dr. S. Ariharan & Anr.(supra); Keshav (supra)** and **Gura Singh (supra)**, are of no help to the petitioner to seek the relief of pre-arrest bail because the facts and circumstances of the above-cited cases are explicitly distinguishable from those of the present one.

11. As a sequel to the fore-going discussion, it follows that the petition in hand deserves dismissal. Resultantly, the same stands dismissed accordingly.

12. However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

(MEENAKSHI I. MEHTA)
JUDGE

December 07, 2021.
seema

Whether speaking/reasoned?	Yes
Whether Reportable?	No