

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

109

**CRM-M-28365-2022
Date of decision: 07.07.2022**

BALDEV

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Namit Khurana, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 read with Section 482 of the Code of Criminal Procedure, 1973 praying for grant of anticipatory bail to the petitioner in case bearing FIR No. 248 dated 01.06.2022 registered under Sections 323, 325 and 506 of the Indian Penal Code, 1860 and Sections 3(1) (s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (added later on) at Police City Kaithal, District Kaithal.

Learned counsel appearing on behalf of the petitioner submits that the anticipatory bail had been filed under Section 438 since the order dated 24.06.2022 dismissing the anticipatory bail petition furnished by the petitioner was passed by the Additional Sessions Judge, Kaithal and not by the Special Court or Exclusive Special Court. Hence Section 14 (A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would not be applicable to the facts of the present case and the petition under Section

438 would be maintainable.

Without going into the merits of the said submission and taking into consideration the fact that ordinarily at the time of assigning the case, the Court was required to see the nature of the offence and once the offence under the mandate of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was prima facie applicable, the case ought to have been sent to a Special Court by the Sessions Judge, I deem it appropriate to permit the petitioner to withdraw the instant petition with liberty to file an appeal in terms of Section 14 (A) Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Dismissed as withdrawn with liberty as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

JULY 07, 2022

Vishal sharma

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