

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

**CRM-M No.49529 of 2021 (O&M)
Date of Decision: 21.02.2022**

Sushil

.....Petitioner.

Versus

State of Haryana

.....Respondent.

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

Present:- Mr. Ravi Dutt Sharma, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana
for the respondent-State.

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case arising out of the FIR bearing No.91 dated 18.02.2020 registered at Police Station Pehowa, District Kurukshetra, under Sections 148, 149, 323, 325, 341, 201, 506 IPC and Section 3(S) of SC & ST Act (the offences under Sections 341, 325, 201 IPC stated to have been added later-on), the petitioner has preferred this petition for seeking the relief of anticipatory bail.

Shorn and short of unnecessary details, the allegations, as levelled by complainant Pritam Singh in the subject FIR, are that accused Mewa Singh used to tether his bull in the vacant land in front of their house. When his elder brother Ram Mehar asked the said accused to take the bull away from there, he used derogatory words against his brother in

the name of caste and in the meantime, accused Sandeep, Jagjit and Jeeti and 06 more boys came there with hockeys, sticks and rods in their hands and they also used derogatory words qua their (complainant party's) caste and thereafter, they (accused) caused injuries to him and to his brother and they also abused his mother and sister-in-law, while threatening to kill them.

Status-report has already been filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police, Pehowa.

I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that no offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (here-in-after referred to as 'the Act') is made out against the petitioner so as to attract the provisions of Section 18 of the Act which debar any person, accused of committing an offence under the Act, from seeking the relief of anticipatory bail and therefore, the petitioner deserves the relief as prayed for in this petition. To buttress his contentions, he has placed reliance upon the observations as made by Delhi High Court in **Danish Khan @ Saahil Versus State (Govt. of NCT of Delhi) 2021(1) RCR (Criminal) 546.**

Per contra, learned State counsel argues that the petitioner and his co-accused caused injuries to the complainant and his brother and also

abused them in the name of their caste and therefore, the provisions, as contained in Section 18 of the Act, are applicable to the present case and in view of the same, this petition be dismissed.

It has categorically been mentioned in Para No.11 of the Status-report that as per the investigation conducted in the case, the petitioner had caused injuries to the complainant by giving him slaps and fist-blows and had also abused him in the name of his caste as he belongs to the scheduled caste. In the FIR also, the complainant has specifically alleged that the accused had used derogatory words against them by referring to their caste. Moreover, in Para No.9 of the Status-report, it has further been deposed that during the course of investigation, notice under Section 41(1) Cr.PC was issued to the petitioner to join the investigation but till date, he has not done so.

The observations as made in **Danish Khan @ Saahil's case (supra)** are of no help to the petitioner in the present case because all that has been held therein is that unless proved that the victim is the member of the scheduled caste, the bar under Section 18 of the Act would not be applicable and the anticipatory bail application would be maintainable. However, in Para No.7 of the Status-report, it has clearly been mentioned that the certificate of the complainant qua his belonging to the scheduled caste, was obtained from him and was taken into possession and moreover, as discussed earlier, the petitioner and his co-accused had abused the complainant and his brother in the name of their caste. In these circumstances, the provisions of Section 18 of the Act are attracted in the

present case and in the light of the same, the instant petition, as moved by the petitioner for seeking the relief of anticipatory bail, is not maintainable.

Keeping in view the above-discussed facts and circumstances, as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail.

Resultantly, the petition in hand stands dismissed.

February 21, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*