



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

206

CRA-S-689-2025

Date of decision: 7th April, 2025

Rupinder Singh

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nikhil Ghai, Advocate for the appellant.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.
None for respondent No.2.

MANISHA BATRA, J (ORAL):-

The instant appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the Act, 1989'*) by the appellant against the order dated 02.01.2025, passed by the Court of learned Additional Sessions Judge, Sri Muktsar Sahib, whereby the application filed by him under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for grant of anticipatory bail in case arising out of FIR No. 176 dated 25.11.2024, registered under Sections 126(2), 115(2), 191(3), 190, 324(4), 324(5) of Bharatiya Nyaya Sanhita, 2023 (*for short 'BNS'*) and Section 3 of the Act, 1989 at Police Station Kotbhai, District Sri Muktsar Sahib had been dismissed.

2. Brief facts relevant for the purpose of disposal of this appeal are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant/respondent No. 2 Ravi Singh alleging therein



that on 23.11.2024. He was part of procession of a political party and its members were marching on foot as well as on tractors to celebrate the victory of that party in election. At around 06:00 PM, when the procession reached near the residence of appellant-Khushwinder Singh @ Khusha, then his brother Rupinder Singh @ Pinda(appellant) started abusing him in the name of his caste and made an exhortation to teach him and his companions, a lesson for passing through their house. 20-25 persons were accompanying him. Since the appellant was the resident of the same village as of the complainant, he was aware of the fact that the complainant belonged to SC community. Thereafter, co-accused Sarabjeet Singh, Amarbir Singh, Jaspreet Singh, Babbu Singh, Avtar, Jagsir, Gurpreet Singh @ Minni, along with unidentified persons, armed with weapons like baseball bats, sticks and steel pipes, opened an assault and extended beatings to the complainant on his head, lower arm and elbow. The accused persons also damaged their vehicles. Vakil Singh, Gurnam Singh, Tarsem Singh, Malkit Singh @ Pillu Singh and Jagdev Singh @ Gora Singh rescued the complainant from the clutches of the accused persons and in that process they too sustained injuries. The accused persons ran away from the spot along with their respective weapons while shouting expletives at them. The injured persons were taken to hospital for medical treatment. The complainant prayed for taking legal action against the culprits. After registration of the FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the appellant had moved application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Sri Muktsar Sahib but the same had been dismissed by passing the impugned



order while observing that that the application was not maintainable in view of the provisions of Section 18-A of the Act, 1989. Feeling aggrieved, the appellant has preferred the present appeal.

3. It is argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the concerned Court failed to observe that the offence under Section 3 of the Act, 1989 was added only after a gap of ten days from the date of lodging of the FIR, which showed that it was so included to exert pressure upon the appellant and the co-accused. Vague and general allegations of sweeping nature have been levelled against him. He is alleged to have caused a blow with wooden base ball bat on the back of head of Ravi Singh. The injury so sustained by Ravi Singh was opined to be simple in nature. He is ready to join the investigation. His custodial interrogation is not required. No purpose would be served by keeping him in custody. The ingredients for commission of offence punishable under Section 3 of Act, 1989 are not attracted against him. It is accordingly, urged that the impugned order is liable to be set aside and the appeal deserves to be allowed.

4. *Per contra*, learned Assistant Advocate General, Punjab, has argued that there are specific allegations against the appellant, who had hurled abuses to the complainant in the name of his caste and had assaulted him as well as criminally intimidated him. The bar of Section 18 of the Act, 1989 is attracted since a *prima facie* case under the provisions of this Act has been made out as against the appellant. As such, the application for grant of anticipatory bail was not maintainable. The concerned Court did not commit any illegality in passing the impugned order. Therefore, it is urged



that the appeal is not maintainable and is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. As per the allegations, the appellant along with the co-accused had inflicted injuries on the complainant on 23.11.2024 and used derogatory remarks with regard to his caste. Simple injuries are alleged to have been sustained by the complainant and the offences for which he has been booked for under the provisions of BNS, are bailable in nature. However, as per the allegations, on the fateful day, the appellant within public view had hurled abuses to the complainant while being present with the co-accused and public persons and by calling him in the name of his caste. The incident is alleged to have taken place in the public place and within the sight of several public persons and therefore, a *prima facie* case for commission of offence punishable under Section 3(1)(s) of the Act, 1989 has been made out which also falls within the definition of Section 3(2)(va) being an offence as mentioned in schedule of the Act, 1989.

7. It is well settled proposition of law that the bar created by Section 18 of the Act, 1989 would not apply if the complaint does not make out a *prima facie* case for applicability of this Act. As per the Section 18, the provisions of Section 438 of the Code of Criminal Procedure (which are *pari materia* with Section 482 of BNS) will not apply in relation to any case involving the arrest of any person accused of having committed an offence under this Act and, therefore, a person accused of an offence punishable under the provisions of the Act, 1989 is not entitled to invoke jurisdiction of Court under Section 438 of the Cr.P.C.



8. In the instant case on perusal of the contents of the allegations as levelled in the FIR lodged by respondent No.2- complainant, it cannot be stated that no *prima facie* case for commission of offences for which the present appellant has been summoned including the offence punishable under Section 3 of the Act, 1989 has been made out. Rather the allegations on the face of the record show that the appellant committed offences punishable under Section 3(1)(s) and 3(2)(va) of the Act, 1989. As such, the bar created under Section 18 of the Act, 1989 applies to this case. The learned Additional Sessions Judge, while passing the impugned order had made observations as to the bar created under Section 18 of the Act, 1989. No illegality or irregularity can be stated to have been committed by the learned trial Court while passing the impugned order. Even otherwise, no extra ordinary or exceptional circumstance has been made out in this case for extending benefit of pre-arrest bail to the appellant. As such, I am of the considered opinion that the impugned order does not warrant any interference and the appeal does not deserve to be allowed. Accordingly, the same is dismissed.

9. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

10. Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th April, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*