



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

CRA-S-2412-2025 (O&M)

Reserved on 27.08.2025

Pronounced on 28.08.2025

Tarsem

..... Appellant

Versus

State of Haryana and Another

..... Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Aditya Sanghi, Advocate
for the appellant.

Mr. Kshitij Bharati, AAG, Haryana.

Mr. Kamal Jindal, Advocate for respondent No.2.

SHALINI SINGH NAGPAL J.

1. The appeal under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenges order dated 28.07.2025 of learned Additional Sessions Judge, Sirsa vide which application for anticipatory bail of the appellant in FIR No.136 dated 15.06.2025 under Sections 115/76/79 of BNS and Section 3(1)(w) of the SC/ST Act, P.S. Kalan Wali, District Dabwali, Haryana was dismissed.

2. Facts of the case, relevant for determining the controversy are that Parveen Kaur wife of Vinod Kumar, stated in her complaint to the police that she was running a beauty parlour in Sirsa. On 13.06.2025, she was standing at Pipli Bus Stand with her husband. At about 9:00 PM, while they were talking with Gora Singh son of Chhota Singh, Tarsem Sharma son of Vijay Sharma, resident of Pipli came to the bus stand on his vehicle and



told them to shift their bike to one side. Then, Tarsem Sharma abused her and her husband in the name of their caste and tore her clothes. She belonged to caste Majhabi Sikh and Tarsem Sharma, being co-villager was well aware. He assaulted her at bus stand for no reason and misbehaved.

3. Learned counsel for the appellant argued that there was an unexplained delay of two days in lodging FIR. He then referred to statement of Ram Reet Singh @ Gora Singh, submitting that he was an eye witness of the incident and according to his version before the police, it was a mere case of altercation and scuffle between the complainant and the appellant, in which he intervened but appellant did not abuse the complainant in the name of caste nor tore her clothes. He submitted that the witness had even filed an affidavit in support of this version, as was apparent from the police reply. Referring to the contents of FIR, it was urged that the complainant made sweeping and non-specific allegations which were insufficient to invoke Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Mere claim that the appellant hurled caste based abuses without the specific derogatory words was not sufficient to make out even a *prima facie* case.

4. It was next submitted that the appellant had been falsely implicated due to a previous dispute between the parties. Referring to Annexure P-4 and Annexure P-5, it was urged that the complainant was involved in two other cases (as accused), one under Section 384/120-B IPC and another under Section 341/23/149/147 IPC which reflected on her veracity. Learned counsel further submitted that custodial interrogation of the appellant was not warranted and he was ready and willing to get the vehicle recovered, if so required; that the injuries suffered by the



complainant were minor, possibly self inflicted.

5. Regarding the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, learned counsel referred to ***Prathvi Raj Chauhan vs. Union of India (2020) 4 SCC 727*** and ***Hitesh Verma vs. State of Uttarakhand (2020) SCC Online SC 907***, arguing that the basic ingredients of Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were not satisfied, therefore, the bar under Section 18 did not apply. Allegations against the appellant were vague and omnibus in nature. Learned counsel also submitted that the offence under Section 76 BNS had been deleted by the Police, not being made out and the rigour of Section 3(1)(W) was not attracted as there was no act of touching the complainant with sexual intent. He urged that a mere scuffle, without the requisite intention did not make out the offence under Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Learned State counsel, assisted by Mr. Kamal Jindal, Advocate for respondent No.2, on the other hand, submitted that the application for anticipatory bail was not maintainable in view of the bar of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as *prima facie* case was made out against the appellant, who not only abused the complainant in the name of caste, but also caused two blunt injuries. Referring to Annexure R2, statement of respondent No.2 recorded under Section 183 of BNSS, it was pointed out that the appellant did not vaguely insult respondent No.2 in the name of her caste but uttered specific words “*Chudde, Chuddi, Chamaari*” .

7. As per law settled in ***Prathvi Raj Chauhan's case (supra)*** and



the *Vilas Pandurang Pawar and another vs. State of Maharashtra and others*, (2012) 8 SCC 795, Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, can only be invoked if prima-facie case is established.

8. Hon'ble Supreme Court in "*Shajan Skaria Vs. The State of Kerala & Anr*" 2024 SCC Online SC 2249 has observed that

"As a sequitur, if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons".

9. It was further observed that

"The duty to determine prima facie existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of



the courts assumes even more importance when a prima facie finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual”.

10. Thus, an accusation which does not disclose the necessary ingredients of the offence on a *prima facie* reading cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the Act, 1989.

11. It has been further observed by the Hon’ble Apex Court in the above pronouncement that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe. Unless there is an intention to humiliate a member of the Scheduled Caste or Scheduled Tribe for the reason that he belongs to such community, the mischief of Section 3(1) of the 1989 Act would not be attracted. Not every insult or intimidation of a member of SC/ST community will result into a feeling of caste based humiliation unless it was the intention of the accused to subject the concerned person to caste based humiliation.

12. Reverting to the facts of the case, the only attribution to the appellant is that he insulted respondent No.2 in the name of her caste. The precise words of the alleged insult are conspicuously missing in the FIR. The FIR records that the appellant belonged to caste “Mazhabi Sikh”. It is not the claim in the FIR that the appellant insulted her by calling her Mazhabi Sikh. It is pertinent to note that the FIR has been registered not immediately after the incident but after a delay of 2 days, on 15.06.2025.



13. Learned State counsel has emphasized much on the statement of prosecutrix recorded under Section 183 BNS, 2023 wherein she considerably improved her version saying that the appellant called her “*Chudde, Chuddi, Chamaari*”.

14. It is a fact that in her first report, respondent No.2 did not claim that she belonged to caste “*Chudde, Chuddi, Chamaari*”. The subsequent version of respondent No.2 cannot be used to hold that the intention of the appellant was to insult and intimidate respondent No.2 on account of her belonging to SC or ST. Intention is the *sine qua non* under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and has to be gathered from the first report to the police. Even if the first version is accepted and it is taken that respondent No.2 was insulted by calling her Mazhabi Sikh, the intention to insult and humiliate on the basis of caste would be conspicuously missing.

15. Custodial interrogation of the appellant is not required. He has roots in the society. His antecedents are clean. Petitioner deserves to be released on anticipatory bail. Considering the nature of attribution to the appellant in the FIR and all relevant facts and circumstances of the case, but without meaning to comment on merits, the application for anticipatory bail deserved to be allowed.

16. For the reasons above, the appeal is allowed. Order dated 28.07.2025 passed by learned Additional Sessions Judge/Fast Track Special Court, Sirsa is set aside.

17. Appellant is directed to appear before Investigating/Arresting Officer and join investigation as soon as may be. In the event of arrest, the Investigating/Arresting Officer shall release him on bail on his furnishing



personal/surety bonds to his/her satisfaction. The appellant shall also abide by all the conditions as envisaged under Section 482(2) of BNSS, 2023.

18. Pending applications, if any, also stand disposed of.

28.08.2025
Sumit Singla

(SHALINI SINGH NAGPAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No