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

**CRA-S-2735-2025 (O&M)
Reserved on : 08.09.2025
Pronounced on : 26.09.2025**

Dr. Ashwani Kalia

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. R. S. Rai, Senior Advocate with
Mr. Akshay Jain, Advocate
for the appellant.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Jagtar Singh Sidhu, Advocate
for respondent No. 2.

MANISHA BATRA, J.

1. The present 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 01.09.2025 passed by the learned Additional Sessions Judge, SAS Nagar, whereby an 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. 220 dated 14.08.2025, registered under Section 3(1)(s) of the Act, 1989 at Police Station Phase-I, SAS Nagar, Mohali, had been dismissed.

2. Brief facts relevant for the purpose of disposal of this appeal are

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that the aforementioned FIR was lodged by the complainant, who is posted as Assistant Director (Physics/Audio), Forensic Science Laboratory, SAS Nagar (*for short 'FSL'*) alleging that the appellant, who was posted as Director at FSL, had been trying to change final report relating to a particular FIR registered at Police Station Phase-8, SAS Nagar by illegally interfering and forging the complainant's official seals already affixed on the parcels. She had already addressed the said concern to Administrative Secretary, Department of Home Affairs and Justice, Punjab on 01.01.2025. She further alleged that on 03.01.2025, when she was present in her office room and was discussing work with her staff members, the appellant entered inside her office room and asked for the seals and stamps of the Physics Division which were in the custody of the complainant. The complainant asked him about the reason for taking those seals and on this, the appellant started shouting at her by saying "*mazhabi walon ki mazma laya hoye hai*". He threatened the complainant to get her fired by reporting the matter to the Administrative Secretary. The complainant, who belongs to scheduled caste category, prayed for taking action against the appellant by alleging that he had humiliated/abused her in the name of her caste.

3. After registration of the FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the appellant had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, SAS Nagar but the same had been dismissed on 01.09.2025 by observing that the bar under Section 18-A of the Act, 1989 was attracted. Feeling aggrieved, the appellant has preferred the present appeal.

4. It is argued by learned senior counsel for the appellant that the

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impugned order is not sustainable in the eyes of law as while passing the same, the learned Additional Sessions Judge, SAS Nagar ignored the fact that the allegations levelled in the FIR do not make out any case attracting any provision of the Act, 1989. In fact, respondent No. 2/complainant is junior to him and since she had been reprimanded by him her for not performing her duties and work in accordance with the settled norms, she had felt offended and by taking advantage of her being a member of scheduled caste community, has falsely roped the appellant in this FIR. It is also submitted that several complaints had been received in the office of the appellant with regard to lackadaisical attitude of the complainant and other staff members of FSL as the police officials and administrative officials had been facing harassment at their hands. The appellant had conducted a surprise check on 03.01.2025 and as the complainant/respondent No. 2 was found sitting idle with some other staff members and was not discharging her official duties, she was reprimanded by him. On the same day, explanation of the complainant and other officials was sought by the appellant by issuing a memo and this FIR is a counter-blast to the same.

5. It is further argued by learned senior counsel for the appellant that the allegations levelled in the FIR, even if accepted to be correct, do not show that the appellant had abused the complainant in the name of her caste in any place within public view, thereby attracting Section 3(1)(s) of the Act, 1989 and in such circumstances, the bar under Section 18-A of the Act, 1989 was not attracted. It is also submitted that the appellant is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. With these broad submissions, it is urged that the present appeal deserves to be accepted, the impugned order is liable to be set

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aside and the appellant deserves to be given benefit of pre-arrest bail. To fortify his arguments, learned senior counsel has placed reliance upon ***Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and another : (2018) 6 SCC, Shajan Skaria vs. State of Kerala and another : 2024 SCC OnLine SC 2249, State of M. P. and another vs. Ram Kishna Balothia and another : (1995) 3 Supreme Court Cases 221 and Hitesh Verma vs. State of Uttarakhand and another : (2020) 10 Supreme Court Cases 710.***

6. Written response has been filed by the respondent-State. Learned State counsel, assisted by learned counsel for the complainant, has argued that there are specific allegations that the appellant had abused the complainant in the name of her caste thereby committing offence punishable under Section 3(1)(s) of the Act, 1989. As such, the bar under Section 18-A of the Act, 1989 was certainly attracted in this case and no case for grant of pre-arrest bail to the appellant was made out. Hence, it is urged that the present appeal is liable to be dismissed. Learned State counsel has placed reliance upon the authority cited as ***Union of India vs. State of Maharashtra and others : (2020) 4 Supreme Court Cases 761.***

7. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record carefully.

8. The appellant is alleged to have abused respondent No. 2/complainant in the name of her caste in her office room and in the presence of three other staff members. As per the allegations, respondent No. 2/complainant as well as those three staff members belong to scheduled caste category. The appellant is alleged to have uttered “*mazhabi walon ki mazma laya hoye hai*”. It is well known that Mazhabi Sikhs in the State of Punjab are historically *Dalit* communities, largely comprising descendants

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of those who embraced Sikhism from marginalized groups. They are recognized as a Scheduled Caste in Punjab. It is well settled proposition of law that the use of a caste name when employed with the intent to insult or humiliate a person belonging to a Scheduled Caste, particularly in a place within public view, attracts the provisions of the Act, 1989. When the term 'Mazhabi' is used in an abusive or derogatory sense, it certainly amounts to an attack upon the dignity of an individual in the name of his/her caste. The Hon'ble Supreme Court in ***Swaran Singh & Ors. vs. State through Standing Counsel & another : (2008) 8 SCC 435***, has clarified that calling a person by his caste name with the purpose of humiliation, constitutes an offence under the Act, 1989. The allegation levelled by the complainant that she was called 'Mazhabi' in a derogatory manner, as such, prima facie, falls within the ambit of Section 3(1)(s) of the Act, 1989. In view thereof, I of the considered opinion that a prima facie case is made out to infer that the appellant had addressed respondent No. 2/complainant as 'Mazhabi' by using her caste in a derogatory manner, which amounts to an offence. No doubt, it is well settled by now that if a prima facie case for commission of offences under the provisions of the Act, 1989 is not made out, then anticipatory bail can be granted to an accused. However, this does not appear to be the position in this case. As such, the authorities cited by learned counsel for the appellant are not applicable to the peculiar facts of the present case. In view of the discussion as made above, I am inclined to hold that the learned Additional Sessions Judge, SAS Nagar committed no error in observing that a prima facie case under the provisions of Section 3(1)(s) of the Act, 1989 was made out and as such, the bar under Section 18-A of the Act, 1989 was attracted and the application for grant of pre-arrest

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bail was not maintainable. Accordingly, finding no reason to allow the appeal, the same is dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

26.09.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>