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

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**CRA-S-2854-2025 (O&M)
Date of decision: 19.09.2025**

Gurjeet Singh Chhina and another**...Appellants****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Chetan Bansal, Advocate
for the appellants.

Mr. Roshandeep Singh, AAG, Punjab.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

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 SC/ST Act'*) by the appellants challenging the order dated 05.09.2025 passed by the learned Additional Sessions Judge, Amritsar, whereby an application filed by them under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of anticipatory bail in case arising out of FIR No. 189 dated 15.08.2025, registered under Section 3(1)(r) of the SC/ST Act and Sections 125, 351(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') at Police Station Raja Sansi, Amritsar.

2. Brief facts relevant for the purpose of disposal of this appeal are that the aforementioned FIR has been registered on the statement recorded by complainant Lakhwinder Singh alleging that on 12.08.2025, he along

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with his nephew Vishal Singh and his friend Harpreet Singh was present in his house, when accused Sahib Singh called on the phone of Vishal Singh and started hurling abuses to him. The speaker of the phone was turned on and Harpreet Singh asked Sahib Singh the reason for abusing Vishal Singh. Feeling offended, Harpreet Singh started abusing him too by saying that 'you are also a scheduled caste; he is also a scheduled caste; tell him this; you messed with the Jatt'. Thereafter also, he used words insulting Harpreet Singh as well as Vishal Singh in the name of their caste and extended threats to them. The complainant alleged that the present appellants could be heard on phone while instigating accused Sahib Singh. They had recorded the entire conversation. By alleging that after this incident, accused Sahib Singh had opened fire in front of his house and had been speaking ill about his caste, the complainant prayed for taking action. After registration of the FIR, investigation proceedings have been initiated and are underway. Apprehending their arrest, the appellants have filed an application before the Court of learned Additional Sessions Judge, Amritsar but the same had been dismissed, vide order dated 05.09.2025 by observing that the bar under Section 18 of the SC/ST Act was attracted in the case and the application was not maintainable. Feeling aggrieved, the present appeal has been filed.

3. It is argued by learned counsel for the appellants that the impugned order is not sustainable in the eyes of law as while passing the same, learned Additional Sessions Judge, Amritsar did not consider the question that ingredients for commission of offence punishable under Section 3(1)(r) of the SC/ST Act were not at all attracted against them. They were neither the persons who had uttered any abusive word humiliating the complainant or his nephew in the name of their caste nor they had any

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conversation with the complainant or the above named Vishal Singh and Harpreet Singh. The appellants are ready to join investigation. Their custodial interrogation is not required. No recovery is to be effected from them. With these broad submissions, it is urged that the present appeal deserves to be accepted, the impugned order is liable to be set aside and the appellants deserve to be given benefit of pre-arrest bail.

4. Notice issued to respondent No. 2/complainant has been received back with the report that he refused to accept the same and the notice has been affixed.

5. Written response has been filed by the respondent-State. It is argued by learned State counsel that there are serious allegations against the appellants. Their custodial interrogation is required for conducting thorough and proper investigation in the matter. Even otherwise, ingredients for commission of offence punishable under Section 3(1)(r) of the SC/ST Act attracted in this case and, therefore, bar under Section 18 of the SC/ST Act is applicable. Hence, it is urged that the present appeal is liable to be dismissed.

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

7. The allegations against the appellants are that while co-accused Sahib Singh was hurling abuses to victims Vishal Singh and Harpreet Singh by making a phone call to Vishal Singh, the appellants were present along with him and were instigating him. The nature of such instigation has, however, not been mentioned in the FIR. On the basis of the allegations as levelled in the FIR, it appears that there is nothing on record to infer that the present appellants were present at the spot or they had humiliated the

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complainant or his nephew or his friend Harpreet Singh in the name of their caste within public view. As such, no *prima facie* case for commission of offence punishable under Section 3(1)(r) of the SC/ST Act can be stated to have been made out against the appellants, thereby attracting the bar under Section 18 of SC/ST Act. In **Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454**, the Hon'ble Supreme Court observed that anticipatory bail could be granted if a *prima facie* case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false. In the peculiar facts and circumstances of the case, this Court is of the opinion that the appellants deserve to be extended benefit of pre-arrest bail.

8. Accordingly, the present appeal is allowed. The impugned order is set aside. The appellants are granted concession of anticipatory bail, subject to the conditions envisaged under Section 482(2) of BNSS. This order shall also be subject to the following conditions:-

- (i) The appellants shall appear before the Investigating Officer within a period of 10 days from today and cooperate with the investigation and shall appear before the Investigating Officer as and when required.
- (ii) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (iii) They shall not commit any similar offence while on bail.

9. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

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10. 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.

19.09.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No