



CRA-S-70-2025 (O&M) and two connected appeals

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2025:PHHC:010513



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

137+213+214

1. CRA-S-70-2025 (O&M)

Avtar Singh and another

...Appellants

Versus

State of Punjab and another

...Respondents

2. CRA-S-168-2025 (O&M)

Sarabjeet Singh and another

...Appellants

Versus

State of Punjab and another

...Respondents

3. CRA-S-251-2025 (O&M)

Harjinder Singh and another

...Appellants

Versus

State of Punjab and another

...Respondents

Date of decision : 23.01.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate
for the appellants.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant appeals have filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the Act, 1989'*) by the appellants against the orders dated 02.01.2025, passed by the Court of learned Additional Sessions Judge, Sri



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Muktsar Sahib, whereby the applications 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. 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 on the ground of non-maintainability of the applications.

2. Brief facts relevant for the purpose of disposal of these appeals 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 along with other workers of a political party were marching on foot as well as on tractors to celebrate their victory. At around 06:00 PM, when the march reached near the residence of one Khushwinder Singh @ Khusha, then his brother Rupinder Singh @ Pinda started abusing him in the name of his caste and made an exhortation to teach him and his companions a lesson for marching in front of their house. He had already called 20-25 persons to quarrel with the complainant party. Since Rupinder Singh @ Pinda 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, Khushwinder Singh @ Khusha Singh, appellant Sarabjeet Singh, appellant Amarbir Singh, Himmat Singh, Jaswinder Singh @ Bittu Singh, Jaspreet Singh, appellant Babbu Singh, Sikhchain Singh, appellant Avtar, appellant Jagsir, Gurpreet Singh @ Minni along with 10 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.



Thereafter, 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. All 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 their arrest, the appellants had moved applications 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 orders while observing that that the applications were not maintainable in view of the provisions of Section 18-A of the Act, 1989. Feeling aggrieved, the appellants have preferred the present appeals.

3. It is argued by learned senior counsel for the appellants that the impugned orders are not sustainable in the eyes of law and the same are liable to be set aside as the appellants have been falsely implicated in this case. A perusal of the contents of the FIR would show that no injury has been attributed to either of the appellants herein. The complainant is politically motivated and due to party fraction in the village, he has falsely implicated the appellants in this case. So far as the allegations regarding making derogatory remarks on the caste of the complainant are concerned, it is apparent from a perusal of the FIR that there are no such allegations against the present appellants and it is only co-accused Rupinder Singh @ Pinda against whom such allegations have been levelled by the complainant. Even otherwise, offence under Section 3 of the Act, 1989 was added by the



police after a period of 10 days from lodging the present FIR, which shows that the aforesaid offence had been added due to political pressure exerted by the complainant. It is argued that vague and general allegations of sweeping nature have been levelled. The appellants are ready to join the investigation. Their custodial interrogation is not required. No recovery is to be effected from them. The allegations do not show that the appellants had insulted/abused the complainant in the name of his caste. The provisions of the Act, 1989 have not been attracted against them even *prima facie* and learned Additional Sessions Judge has wrongly observed that the applications for grant of anticipatory bail were not maintainable. With these broad submissions, it is argued that the present appeals deserve to be accepted and the appellants deserve to be given benefit of pre-arrest bail.

4. In one of the appeals, notice was given to respondent No. 2/complainant but there is no representation on his behalf. Learned Assistant Advocate General, Punjab has argued that there are specific allegations that the appellants along with co-accused had hurled abuses to the complainant in the name of his caste and had assaulted him and had criminally intimidated him. There are specific and serious allegations against the appellants. The provisions of the Act, 1989 are *prima facie* attracted. Hence, it is urged that the present appeals are liable to be dismissed.

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

6. As per the allegations, the appellants inflicted injuries on the complainant on 23.11.2024 and used derogatory remarks with regard to his caste. However, a perusal of the FIR shows that although the appellants have been named in the FIR but no injury whatsoever has been attributed to them.



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Hence, it will be a question of debate as to whether any *prima facie* case under the provisions of BNS has been made out against them or not ? So far as the offence under Section 3 of the Act, 1989 is concerned, this offence was added by the police on 05.12.2024, vide DDR No. 45, i.e. after 10 days of registration of the FIR. Even otherwise, the contents of the FIR do not disclose any allegation against the present appellants that they had made any derogatory caste related remarks against the complainant. More so, appellants Avtar Singh and Jagsir Singh are stated to be members of SC community themselves. Hence, no *prima facie* case attracting the provisions of the Act, 1989 can be stated to be made out against them as the provisions of the Act, 1989 can only be invoked against the persons who do not belong to SC/ST community. As such, it is also a question of debate as to whether the ingredients for commission of offence punishable under Sections 3 of the Act, 1989 are attracted at all or not ? In view thereof, in my opinion, no *prima facie* case for commission of aforementioned offence under the provisions of the Act, 1989 can be stated to have been made out against the appellants, thereby attracting the bar under Section 18 of SC/ST Act. Reliance in this regard can be placed upon ***Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and another : (2018) 6 SCC 454*** and ***Prathvi Raj Chauhan vs. Union of India and others : AIR 2020 SC 1036*** wherein Hon'ble Supreme Court has held 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. Reliance can also be placed upon a recent citation of Hon'ble Supreme Court reported as ***Shajan Skaria vs. State of Kerala and another : 2024 SCC OnLine SC 2249***, wherein it was observed that a duty is cast upon the Court to



determine *prima facie* existence 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 SC/ST Act. It was further observed that if the accusation does not disclose the necessary ingredients of the offence on a *prima facie* reading, it cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the SC/ST Act and holding otherwise would mean that even a plain accusation, devoid of the essential ingredients required for constituting the offence, would be enough for invoking the bar under Section 18 of the said Act. Accordingly, in view of the discussion as made above, it is held in the peculiar facts and circumstances of the case that the appellants deserve to be extended benefit of anticipatory bail.

7. Accordingly, the present appeals are allowed. The impugned orders are set aside. The appellants are granted concession of anticipatory bail, subject to the compliance of the conditions envisaged under Section 482 of BNSS, 2023. This order shall also be subject to the following conditions:-

- (i) The appellants shall cooperate with the investigation and shall appear before the Investigating Officer within a period of 10 days from today and subsequently also 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.



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8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with law.
9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeals and the same shall not be construed as an expression of opinion on the merits of the case.
10. Let a photocopy of this order be placed on the files of the connected appeals.

23.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes