



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208-1

CRM-M-5798-2024 (O&M)

Date of decision: 17.09.2025

Sandeep Kaur and another

...Petitioner(s)

VERSUS

Smt. Kiran and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Harminder Singh, Advocate for the petitioner(s).

Mr. J.S. Mahel, Advocate for respondent No.1.

Mr. Mohit Kapoor, Sr. DAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner(s) in criminal complaint bearing No.COMA/206/2017 instituted on 28.09.2018 under Sections 323, 325, 452, 379-B, 411, 427, 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending before the Judicial Magistrate 1st Class, Gurdaspur, wherein the petitioners have been summoned vide order dated 13.01.2020.

2. Learned counsel appearing on behalf of the petitioners contends that respondent No.1-complainant had instituted the proceedings against three persons including the petitioners. He contends that the complainant is married to a Dy. Superintendent of Police in the State of Punjab and petitioner No.1's husband was posted as gunman with the husband of the



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complainant. He contends that on account of a matrimonial dispute *inter se* between the complainant and her husband-Rameshwar Singh, the petitioners have been roped in as accused in the present case. He contends that respondent No.1-complainant is a chronic litigant and has instituted more than 25 complaints against different persons by abusing the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. A list of the litigations instituted at the end of the complainant against the neighbours, with her husband, Bank(s), school colleagues and police officials as well as medical staff, has been attached. The tabulation of the said cases is not disputed by the counsel appearing on behalf of respondent No.1-complainant.

3. It is further argued that as a matter of fact, the petitioners are neighbours of the complainant and as per the averments contained, an initial scuffle took place on 15.05.2017 and subsequently, it is alleged that on 21.05.2017, the petitioners came out in the street and hurled humiliating remarks against the respondent No.1-complainant. Counsel contends that it is highly unlikely for the petitioners to have come out on 21.05.2017 without any provocation to hurl such abuses especially when the allegations with respect to the earlier incident of 15.05.2017 had already come to an end. He further contends that the petitioners have been nominated as accused solely on account of malicious reasons and for having been posted with Rameshwar Singh-husband of the complainant. It is averred that the order of summoning is already a subject matter of challenge in CRM-M-41249-2023 wherein notice of motion had also been issued. It is submitted that



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prayer of the petitioners for grant of anticipatory bail was declined by the Additional Sessions Judge, Gurdaspur by making a reference to Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He contends that the said bar is not absolute in view of the judgment of the Hon'ble Supreme Court in the matter of '*Shajan Skaria Vs. State of Kerala and Another*' reported as *2024 SCC OnLine SC 2249* and in the event where the allegations are well substantiated and corroborated and the intent to inflict insult or intimidate due to practice of untouchability or to reinforce the entrenched ideas like the superiority of the "upper castes" etc. that the offence may be attracted. He contends that the necessary ingredients for the offence are not made out. It is further argued that it is a complaint case in which custodial interrogation of the petitioners would not be required.

4. Counsel for respondent No.1-complainant reiterates the allegations levelled in the complaint and as noticed by the Court while summoning the petitioners. He contends that the presence of Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 would deprive the petitioners of the right to seek anticipatory bail.

5. Having heard learned counsel for the parties, I am of the opinion that the case would involve arguable issues including as to whether the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 would be attracted or not and as to whether the remarks in question can be said to be one which had been hurled with an intent to humiliate the respondent-complainant. Besides, it is a



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criminal complaint wherein custodial interrogation of the petitioners would not be required.

6. Taking into consideration the judgment passed by the Hon'ble Supreme Court in the matter of *Shajan Skaria (supra)*, I find that the reliance on Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Sessions Court for declining the concession of anticipatory bail to the petitioners may not have been wholly justified and the Court is required to examine the nature of allegations and to assess the allegations and ascertain as to whether the bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 would be attracted in a particular case or not. In the event the parameters/guidelines as delineated by the Hon'ble Supreme Court in the matter of *Shajan Skaria (supra)* are followed, the concession of anticipatory bail can be extended to such accused.

7. Resultantly, the instant petition is **allowed**, the petitioners are ordered to be released on anticipatory bail. In the event of the petitioners surrendering before the trial Court, they shall be admitted to interim bail on their furnishing of bail/surety bonds to its satisfaction.

(VINOD S. BHARDWAJ)
JUDGE

17.09.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No