



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH  
301 CRA-S-851-2025  
Date of decision: 3<sup>rd</sup> April, 2025**

Abhe Ram

...Appellant

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. D.S. Virk, Advocate for the appellant.  
Ms. Sheenu Sura, Deputy Advocate General, Haryana.  
Mr. Ravinder Kumar, Advocate for respondent No.2.

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**MANISHA BATRA, J (ORAL):-**

This appeal has been filed under Section 14-A of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, '*the Act, 1989*') against the order dated 11.02.2025 as passed by the Court of learned Additional Sessions Judge, Special Court, Kaithal in case arising out of FIR No. 17 dated 29.01.2025 registered under Sections 115, 190, 191(3), 333, 351(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Section 3(2) (va) the Act, 1989, at Police Station Cheeka, District Kaithal, whereby an application for grant of anticipatory bail as filed by the appellant, had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this appeal are that the aforementioned FIR was registered on the basis of statement recorded by respondent No.2-complainant Raj Kumar @ Kala alleging that on 28.01.2025 at about 10:00 AM, he was working in his cattle shed when the accused Nafe Singh, Kamlesh and their son Monu entered inside. They started calling bad names to him by abusing him in the name of



his caste and extended threat to him to vacate the shed. Accused Monu caught him by neck and took him out of the shed. On hearing the clamour, Laxmi Chand his elder brother also reached there. The accused started assaulting his brother and himself, while giving abuses to them. Several neighbourers had gathered at the spot. In the meanwhile, the appellant accompanied by the co-accused, reached there being armed with sticks. All of them proclaimed “that the complainant and his family members being *dedh and chamars should be taught a lesson*”. They opened an attack upon the complainant and his family members with sticks. In the meanwhile, police reached there and saved them from the clutches of the accused. The complainant was rushed to the hospital and was given treatment. After registration of FIR, investigation proceedings have been initiated and the same are underway. Apprehending his arrest, the appellant moved application for grant of pre-arrest bail which was dismissed vide order dated 18.02.2025.

3. It has been argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Court ignored the fact that the offence under Section 333 of BNS had been deleted during the course of investigation. All the other offences under the provisions of BNS areailable in nature. The provisions of Section 3(2)(va) of the Act, 1989 were not at all attracted. It is a case of a version and cross- version as an FIR bearing No. 21 dated 01.02.2025 has been registered on the basis of complaint filed by appellant side on 01.02.2025. Appellant is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from



them. Therefore, it has been urged that the impugned order is liable to be set aside, appeal deserves to be accepted and he deserves to be given benefit of pre-arrest bail.

4. Status report has been filed by respondent-State. Learned Senior Deputy Advocate General Haryana assisted by learned counsel for respondent No.2-complainant has vehemently argued that there are specific and serious allegations against the appellant. The provisions of Section 18 of the Act, 1989 are attracted in the case and the same certainly bar grant of anticipatory bail to the appellant. The learned Additional Sessions Judge did not commit any error in declining the relief claimed by the appellant. Therefore, it has been argued that the appeal is liable to be dismissed.

5. Learned counsel for the parties have been heard at considerable length and I have gone through the record carefully.

6. As per the allegations, on 27.01.2025, the appellant formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, he voluntarily caused simple hurt to the complainant. He also insulted respondent No.2-complainant and his family members with an intent to humiliate them, they being members of schedule caste and hurled abuses in the name of their caste. The incident is alleged to have taken place outside his house and within the sight of several public persons and therefore, a *prima facie* case for commission of offence punishable under Section 3(1)(s) of the Act, 1989 has been made out which also falls within the definition of Section 3(2)(va) being an offence as mentioned in schedule of the Act, 1989.

7. It is well settled proposition of law that the bar created by



Section 18 of the Act, 1989 would not apply if the complaint does not make out a *prima facie* case for applicability of this Act. As per the Section 18, the provisions of Section 438 of the Code of Criminal Procedure (which are *pari materia* with Section 482 of BNS) will not apply in relation to any case involving the arrest of any person accused of having committed an offence under this Act and, therefore, a person accused of an offence punishable under the provisions of the Act, 1989 is not entitled to invoke jurisdiction of Court under Section 438 of the Cr.P.C.

8. Section 14 of the Act, 1989 provides for filing an appeal to the High Court against an order granting or refusing bail. In ***Vinod Bindal vs. State of Haryana, 2023 (1) RCR (Criminal) 392***, a coordinate Bench of this Court had observed that only the Courts constituted under Section 14 of the Act i.e. Special Court and Exclusive Special Court can have jurisdiction to entertain an application for bail and the power of the Court of Sessions and High Court in its original criminal jurisdiction to entertain an application under Section 438 or 439 of Cr.P.C. have been impliedly taken away by Section 14 of the Act, 1989. Hon'ble Supreme Court in a celebrated judgment cited as ***Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and another (2018) 6 SCC 454*** has dealt with the provisions of Section 18 of the Act, 1989 and observed that the exclusion of provision for anticipatory bail will not apply when no *prima facie* case is made out or the case is patently false or *mala fide* or where on judicial scrutiny, the complaint is found to be *prima facie mala fide*.

9. In the instant case on perusal of the contents of the allegations as levelled in the FIR lodged by respondent No.2- complainant, it cannot be stated that no *prima facie* case for commission of offences for which the present appellant has been summoned including the offence punishable



under Section 3 of the Act, 1989 has been made out. Rather the allegations on the face of the record show that the appellant committed offences punishable under Section 3(1)(s) and 3(2)(va) of the Act, 1989. As such, the bar created under Section 18 of the Act, 1989 applies to this case. The learned Additional Sessions Judge, while passing the impugned order had made observations as to the bar created under Section 18 of the Act, 1989. No illegality or irregularity can be stated to have been committed by the learned trial Court while passing the impugned order. Even otherwise, no extra ordinary or exceptional circumstance has been made out in this case for extending benefit of pre-arrest bail to the appellant. As such, I am of the considered opinion that the impugned order does not warrant any interference and the appeal does not deserve to be allowed. Accordingly, the same is dismissed.

10. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

**[MANISHA BATRA]**  
**JUDGE**

**3<sup>rd</sup> April, 2025**

*Parveen Sharma*

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No