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

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**CRA-S-2-2025 (O&M)
Date of decision: 15.02.2025**

Prince

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikram Singh, Advocate
for the appellant.

Mr. Apoorv Garg, Sr. DAG, Haryana.

Mr. Deep Singh Saini, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 23.12.2024, passed by the learned Additional Sessions Judge, Panipat, 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. 30 dated 11.01.2024, registered under Sections 323, 506 and 34 of IPC and Sections 3(i)(s) and Section 3(2)(va) of the SC/ST Act at Police Station Old Industrial Panipat, District Panipat, has been dismissed.

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2. Brief facts relevant for the purpose of disposal of the present appeal are that the aforementioned FIR has been registered on the basis of a complaint lodged by complainant Dinesh alleging therein that the appellant and co-accused were the residents of the same vicinity, where he was residing. They were having inimical relations with his family and himself. Previously, they had lodged a case bearing FIR No. 914 of 2022 at Police Station City Panipat. He further alleged that on 10.01.2024 at about 10:30 AM, he was present at the barber shop, when the appellant along with co-accused reached there and started insulting him by hurling abuses in the name of his caste. He raised objection and then they assaulted him while calling him by the name of *“Kameen, dhed, gindal, tum log pichle mukadame se bach gaye aur aaj bhi tu bach gaya lekin moka milte hi tuje jaan se maar denge”*. They even tried to strangulate him. He had fallen down and sustained injuries. The passersby had rushed for his rescue and while going away, they extended threats to kill him. He was taken to hospital and was under treatment. After registration of the FIR, investigation proceedings have been initiated and the same are underway. Apprehending his arrest, the appellant had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Panipat but the same had been dismissed, vide order dated 23.12.2024 by observing that the same was not maintainable in view of bar created under Section 18 of the SC/ST Act and also considering the seriousness and gravity of the subject offences. Feeling aggrieved, the present appeal has been filed.

3. The instant appeal has been filed by the appellant on the grounds and it has been argued by his counsel that the impugned order is not

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sustainable in the eyes of law as while passing the same, learned Additional Sessions Judge ignored the fact that the appellant has been falsely implicated in this case. In fact, there is previous animosity between the members of the complainant party and the family of the appellant. An FIR was lodged against the members of the complainant party. The FIR of this case is a counterblast to exert pressure on the appellant to effect compromise. The allegations with regard to using caste related words/abuses against the complainant are vague and general in nature as these allegations have been attributed to all the accused and not to the appellant alone. He is ready to join the investigation. His custodial interrogation is not required. The ingredients for commission of offences punishable under Sections 3(i)(s) and Section 3(2)(va) of the SC/ST Act are not attracted at all. It is submitted that the custodial interrogation of the appellant is not required. No recovery is to be effected from. He is ready to join investigation. However, the Court of learned Additional Sessions Judge, Karnal did not take into consideration all these facts and wrongly dismissed his bail application. With these broad submissions, it is argued that the present appeal deserves to be accepted and the appellant deserves to be given benefit of pre-arrest bail.

4. Respondent-State has filed written response to the appeal. It is submitted therein and learned Senior Deputy Advocate General, Haryana, assisted by learned counsel for respondent No.2/complainant, has argued that there are serious and specific allegations against the appellant, who accompanied by the co-accused, had caused several injuries to the complainant and had also insulted him in the name of his caste by hurling abuses to him. The bar created under Section 18 of the SC/ST Act is

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attracted in this case. There is no illegality or infirmity in the impugned order. The custodial interrogation of the appellant is must for thorough investigation in the matter. Therefore, it is argued that the appeal is 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 allegations, the appellant and co-accused, who were having previous enmity with the complainant and his family, had insulted him in the name of his caste on 10.01.2024 when he was present at a salon. When the complainant raised objection to the same, the appellant along with the co-accused opened an assault upon him while using derogatory remarks in the name of his caste as mentioned above. They even tried to strangulate him. In the incident, the complainant sustained several injuries. The allegations as levelled against the appellant make out a *prima facie* case for commission of offences punishable under the aforesaid provisions of SC/ST Act. Undoubtedly, despite the bar created under Section 18 of the SC/ST Act that the provisions of Section 482 of BNSS are not applicable to the offences committed under this Act, this Court has extraordinary power to entertain a plea of an accused for grant of anticipatory bail even in a petition filed under Section 482 of BNSS. However, that power can be exercised, if it is revealed that no *prima facie* material exists warranting arrest of the accused in the case. Reliance in this regard can be placed upon ***Prathvi Raj Chauhan vs. Union of India and others, AIR 2020 SC 1036***, wherein the Apex Court considered the impact of Section 18-A of the SC/ST Act and held that as far as the provisions of Section 18-A and anticipatory bail are concerned, in

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case where no prima facie material exists warranting arrest in a complaint, the Court has inherent power to direct a pre-arrest bail. However, in the instant case, as discussed above, a *prima facie* case for commission of the aforementioned offences has been made out from the allegations in the FIR. As such, in my considered opinion, the provisions of Section 18 and 18-A of the SC/ST Act certainly apply to the present case. Therefore, anticipatory bail cannot be granted to the appellant. In this regard, reliance can also be placed upon the judgment rendered by the High Court of Kerala in ***Abbas R. V. vs. State of Kerala and others, 2022 (5) KLT 618***, wherein similar observations have been made. In view of the discussion as made above, finding no ground to grant the concession of pre-arrest bail to the appellant, the present appeal 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.

10. Since the appeal stands disposed of, pending application, if any shall also be treated as disposed of.

15.02.2025

Wassem Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*