

2025:PHHC:051064



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101+217

CRA-S-792-2025 (O&M)
Date of decision: 21.04.2025

Manjit Singh and another

...Appellants

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Japjit Singh Johal, Advocate
for the applicants-appellants.

Ms. Sakshi Bakshi, AAG, Punjab.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. CRM-15527-2025

Allowed as prayed for.

Documents are taken on record.

2. CRA-S-792-2025 (O&M)

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 Act, 1989'*) by the appellants challenging the order dated 30.01.2025, passed by the Court of learned Additional Sessions Judge, Hoshiarpur, whereby an application filed by them under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail in a private complaint case bearing CIS No. SC-109 of 2022, titled as ***Amrik Ram vs. Pappu and another***, filed under Sections 323, 506 read with

2025:PHHC:051064



Section 34 of IPC and Section 3(1)(x) of the Act, 1989, had been dismissed.

3. Brief facts relevant for the purpose of disposal of this appeal are that the aforementioned complaint had been filed by the respondent No. 2/complainant Amrik Singh on the allegations that on 16.03.2022, his son Shubhinder had gone to the fields of appellant Manjit Singh @ Pappu for bringing a cricket ball. When he was looking for the ball, appellant Manjit Singh, while raising a lalkara and saying that “*Khad ja Tainu Banaunde Ya Banda Chamara*”, opened an assault upon his son. Then both the appellants hurled abuses in the name of caste of his son and caused injuries on the backside of his legs with a stick while saying “*Es chamar diya latta todniya ajj*”. The son of the complainant sustained several injuries and raised alarm. Daughter of the complainant, namely Preeti, and his brother’s wife Sonia, who were present at the spot, saved Shubhinder from the clutches of the appellant. The matter was reported to the village panchayat but no action was taken. Then, a complaint was made to the police and on 18.03.2022 and a case under Section 323 read with Section 34 of IPC was registered.

4. Respondent No. 2 further alleged in his complaint that on 19.03.2022, the appellants, along with some unknown persons, had intercepted his brother Satnam Singh and himself, while they were going for their work and exerted pressure to withdraw the complaint lodged before the police and on their refusal, hurled filthy abuses in the name of their caste and also extended threats to kill them. A DDR No. 17 dated 25.03.2022 was registered under Section 107/151 of Cr.P.C. on the complaint of brother of respondent No. 2 but no action under the provisions of the Act, 1989 was taken, thereby compelling respondent No. 2 to file a private complaint.

2025:PHHC:051064



5. In preliminary evidence, respondent No. 2 examined six witnesses and himself appeared as CW-4. Vide order dated 11.11.2024, the present appellants were summoned by the learned trial Court under Sections 323 and 506 read with Section 34 of IPC as well as under Section 3(1)(x) of the Act, 1989. The appellants moved an application for grant of pre-arrest bail, which had been dismissed by the aforementioned Court by observing that the same was not maintainable in view of the statutory bar created under Section 18 of the Act, 1989. Feeling aggrieved, the present appeal has been filed.

6. 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, the Court concerned ignored the fact that no case attracting the provisions of the Act, 1989 had been made out. The appellants were wrongly summoned under Sections 323 and 506 of IPC as the provisions thereof were also not attracted. Only a DDR under Section 323 read with Section 34 of IPC was registered against them on 18.03.2022, i.e. two days after the incident and while lodging the said DDR, there was no allegation that the appellants had insulted the respondent No. 2 or his family members in the name of their caste. A false story has been concocted. The complaint was lodged after a gap of 40 days. No offence within the public view is proved to have been committed even *prima facie*. Neither their custodial interrogation is required nor they are required to be joined into investigation as it is a private complaint case. No useful purpose would be served by detaining them into custody. Accordingly, it is urged that the impugned order is liable to be set aside, the appeal deserves to be accepted and the appellants deserve

2025:PHHC:051064



to be given concession of pre-arrest bail. In support of his contentions, learned counsel for the appellants has relied upon ***Ramesh Chandra Vaishya vs. State of Uttar Pradesh : 2023 SCC Online SC 668.***

7. The respondent No. 2/complainant did not appear despite being served. Learned State counsel has also not chosen to address any argument in view of the fact that the impugned order has been passed in a private complaint case.

8. The submissions as made by learned counsel for the appellants have been given due consideration.

9. It is not disputed that respondent No. 2 is a member of SC community. The appellants are alleged to have assaulted the son of respondent No. 2/complainant on 16.03.2022 while insulting him in the name of his caste and they are further alleged to have insulted the respondent No. 2 and his brother Satnam Singh on 19.03.2022 by hurling abuses in the name of their caste. Learned trial Court, vide order dated 11.10.2024, observed that a *prima facie* case for commission of offences punishable under Section 3(1)(x) of the Act, 1989 and Section 323, 506 read with Section 34 of IPC had been made out against the appellants. The appellants have placed on record the copies of the statements of the witnesses of the respondent No. 2 as recorded during the course of preliminary evidence, as per which, the appellants had insulted and abused the son of respondent No. 2 in the name of his caste on 16.03.2022 in the presence of daughter and brother's wife of respondent No. 2. They are further alleged to have abused in the name of caste of respondent No. 2 and his brother on 19.03.2022. The allegations as to incident of 16.03.2022 refer to presence of daughter and

2025:PHHC:051064



brother's wife of respondent No. 2 and not about the presence of any public person. Further, the allegations in the complaint do not mention the factum of presence of any public person even on 19.03.2022, when respondent No. 2 and his brother were allegedly hurled caste related abuses by the appellants. The daughter and brother's wife of respondent No. 2, being family members, cannot be considered as public persons. In **Ramesh Chandra Vaishya's** case (supra), the victim was allegedly insulted in the presence of his wife and son and the FIR did not refer to presence of any member of public. It was observed by Hon'ble Supreme Court that that the utterances, made by the accused, were not in any place within public view and as no member of public was present, hence, basic ingredient for attracting Section 3(1)(x) of the Act, 1989 was missing/absent.

10. In the instant case also, there is no allegation that either on 16.03.2022 or 19.03.2022, the caste related abuses were hurled in the presence of any public person within public view. As such, it is a debatable question as to whether a case under Section 3(1)(x) of the Act, 1989 is even *prima facie* made out or not? Undoubtedly, despite the bar created under Section 18 of the Act, 1989, this Court has extraordinary power to entertain a plea of an accused for grant of anticipatory bail and that power can be exercised, if it is revealed that no *prima facie* material exists warranting arrest of the accused in the case. Reference can also be made to the authority cited as **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 Act, 1989 and held that as far as the provisions of Section 18-A and anticipatory bail are concerned, in case where no *prima facie* material exists

2025:PHHC:051064



warranting arrest in a complaint, the Court has inherent power to direct a pre-arrest bail. 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 by Hon'ble Supreme Court 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 infact discloses the essential ingredients required to constitute an offence under the Act, 1989. 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 Act, 1989 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 pre-arrest bail.

11. Accordingly, the present appeal is allowed. The impugned order

2025:PHHC:051064



is set aside. The appellants are directed to appear before the learned trial Court within a period of 15 days from today and on doing so, they shall be released on bail, subject to their furnishing personal/surety bonds to the satisfaction of the learned trial Court.

12. Till the time the appellants appear before the learned trial Court, their arrest shall remain stayed.

13. 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.

21.04.2025*Waseem Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*