

**THE COURT OF PARMINDER SINGH RAI
ADDITIONAL SESSIONS JUDGE, GURDASPUR**

CIS No. BA/2340/2023
CNR No. PBGD01-005619-2023
Date of Decision: 26/07/2023

Suba Singh s/o Harbans Singh, r/o Paniari Gate Near Chauhan Hospital, Dinanagar, District Gurdaspur.

.....Petitioner.

Versus

Kamlesh Devi w/o Ruldu Ram, resident of Village Gwalia Colony, P.S. Dinanagar, Tehsil Dinanagar, District Gurdaspur.

.....Respondent.

Complaint under Sections 452, 427, 323, 324, 34 IPC and 3, 4 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) P.S Dinanagar.

Application for bail under Section 438 Cr.P.C.

Present: Sh. G.S. Kahlon, Advocate, counsel for petitioner.
None for respondent

ORDER

Present petition has been filed by petitioner seeking pre-arrest bail under Section 438 of Cr.P.C. for the alleged commission of offences as mentioned above.

2. Upon notice, none has appeared on behalf of respondent-complainant to contest the bail application. Lower Court record was also requisitioned.

3. Briefly the facts of this case are that respondent/

complainant filed a complaint against the petitioners wherein, the learned trial court have summoned petitioner alongwith co-accused to face trial under sections 452, 427, 323,324,34 IPC and 3, 4 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act). Hence, the petitioner filed the present petition seeking pre-arrest bail.

4. I have heard contentions of learned counsel for petitioners and perused the record.

5. As per the contents of the complaint so filed by complainant Kamlesh Devi against the accused-applicant has been that she is house wife. She belongs to Mahasha caste. The husband of complainant moved complaint against accused and Harjinder Singh Sarpanch of the village to the Deputy Commissioner Gurdaspur and other authorities for illegally and forcibly encroaching upon the Shamlat land of the village. On account of the above said reason the accused and above said Harjinder Singh were nourishing grudge against the husband of the complainant and her other family members. On 28.05.2019, complainant was present in her house and husband of complainant was away from his house in connection with his job as he is serving in FCI at Dina Nagar. At about 4:00 p.m, accused alongwith four unidentified persons illegally trespassed in the house of complainant. Accused asked where in her husband on which she requested that he is not present in house and requested accused to come after some time, on which accused and unidentified persons started beating the complainant and giving her filthy abuses

and threatened to face dire consequences. Accused and four unidentified persons also broke down the house hold goods of the complainant. When complainant objected such kind of inhuman behaviour of accused, accused started giving abuses against the caste and creed of complainant that “ Kutye Mahashie Churie Tainu and Ter Ghar Wale Nu Pind Wich Nahin Rehan Dena”.Complainant raised hue and cry on which number of persons from the locality including one Harbhajan Singh who is having Atta Chakki and Mini Shelter Adjacent to the house of complainant and Gulzar Singh. Accused alongwith his hired Gunda elements fled away form the spot alongwith weapons by giving abuses that “ Kutie Mahashie Is Bar Bach Gai Hai, Mauka Milan Te Tainu Maza Chakha Deange, Tusin Kutio Churio Pind Wich Gand Paya Hoya” accused proclaimed in case they did not stop moving applications.

5. Accused-applicant has been summoned to face trial for the offences under Sections 3 & 4 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) alongwith other offence under Penal code. Even it has been held by the **Hon’ble Supreme Court of India in case Vilas Vs State of Maharashtra 2012(4) RCR (Criminal) 761** that accused is not entitled to anticipatory bail for the aforestated offence under SC/ST Act in view of the bar created by Section 18 of the Act which is special law and said provision cannot be easily brushed aside by discussion on evidence. So the argument of the counsel for the accused applicant that no offence is made out

as the occurrence alleged to have taken place in the house is not to be adjudicated upon at this stage as the remedy itself for grant of anticipatory bail is not available. Hence, the present bail application is hereby dismissed. Lower court record be returned. Record of present bail application be consigned to record room.

Pronounced
Dated:26/07/2023.
Gurpreet Singh, Stenographer-II

(Parminder Singh Rai)
Addl. Sessions Judge,
Gurdaspur (UID No. PB00175)

Present: Sh. G.S. Kahlon, Advocate, counsel for petitioner.
None for respondent.

None has appeared on behalf of respondent/complainant.

Arguments heard. Vide my separate detailed order of even date, present bail application has been dismissed. Lower court record be returned. Record of present bail application be consigned to record room.

Pronounced
Dated: 26/07/2023.
Gurpreet Singh, Stenographer-II

(Parminder Singh Rai)
Addl. Sessions Judge,
Gurdaspur (UID No. PB00175)

