

**IN THE COURT OF MS. MANJOT KAUR (PB-0097)
ADDITIONAL SESSIONS JUDGE (SPECIAL COURT),
MANSA.**

CIS No.BA/1428/2022
CNR No. PBMN010043572022
Date of Order 16.11.2022

Amrik Singh, aged about 30 years, son of Sher Singh, resident of Dear,
Nangal Kalan, Tehsil and District Mansa.

--Applicant/accused.

Versus.

State of Punjab

**Complaint Case under Section 452, 354, 323, 506, 148, 149
of the IPC and under Section 3, 4 of the Scheduled Castes
and Scheduled Tribes (Prevention of Atrocities) Act, 1989**

**Bail application under Section 438 Cr. P.C for grant of
anticipatory bail to the applicants.**

Present; Shri Sehajpal Singh Mander, Advocate, counsel for
 applicant-accused.
 Shri Kuldeep Singh Dhaliwal, Advocate, counsel for
 respondent/complainant.

ORDER.

1. Amrik Singh (here-in-after to be referred as bail applicant)
has moved an application under Section 438 Cr.P.C., for grant of
anticipatory bail in complaint case titled as Balvir Kaur Vs Nachattar
Singh and others under Section 452, 354, 323, 506, 148, 149 of the IPC
and under Section 3, 4 of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989.

2. Upon notice, Shri Kuldeep Singh Dhaliwal, Advocate has
appeared for respondent-complainant but no reply has been filed by him.

3. I have heard learned counsel for the applicant, learned counsel for the respondent/complainant and have gone through the record carefully.

4. Bail applicant has been summoned under Section 452, 354, 323, 506, 148, 149 of the IPC and under Section 3 of the SC/ST Act on the basis of complaint filed against him and others by Balvir Kaur wife of Jang Singh. It has been alleged by the complainant that the bail applicant alongwith the non-applicants/accused calling the complainant by her name had started raising lalkaras “*Kutea, Chuhrea, Dhednea Ajj Asi Tenu Jeondi Nahi Chadage Ke Tu Sanu Aunde Jande Raah Vich Deck Laun To Rokdi Hai Ajj Tenu Dasde Haa Ke Kis Tara Rokia Janda Hai*” (today we will not leave you alive as you stop us from putting on music on our deck. Today we will tell you as to how you can stop us). Thus abusing the complainant, bail applicant alongwith the non-applicants had forcibly entered inside her house. Non-applicants are stated to have given beatings to the complainant, her husband and son. Outcry for help having been raised by the complainant had attracted persons from the neighbourhood and upon which bail applicant and non-applicants had shouted “*Kute Chuhre Dhed Loka Ne Sanu Tang Kita Hoya Hai Asi Tohanu Ajj Sabak Shikawage*” (people belonging to her case have disturbed their life and today they will teach them a lesson). After non-applicant Nachattar Singh had outraged the modesty of the complainant, bail applicant alongwith the non-applicants had left the place of occurrence in their vehicle.

5. It has been argued by the learned counsel for the bail applicant that the provisions of Section 438 of the Cr.P.C. stand attracted

to the case in hand as from the factual matrix of the case in hand, it is discernable to the court that the allegations about atrocities or violation of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred to as the Act) are false. Moreover, bail applicant himself belongs to Ramdasia Sikh Caste, which has since been recognized as Scheduled Caste as per “The Constitution (Scheduled Castes), Order 1950’. No other overt act is stated to have been attributed to the bail applicant. Hence, it has been prayed that the relief of anticipatory bail be granted to the bail applicant.

6. Learned counsel for the respondent/complainant vehemently controverted the aforementioned arguments stating that allegations against the bail applicants are loud and clear with regard to the violation of the provisions of the Act. Hence the prayer to dismiss the application.

7. The Hon’ble Apex Court in its Judgment **Prathvi Raj Chauhan Versus Union of India & Ors, Writ Petition [C] Nos.1015 and 1016 of 2018, decided on February 10, 2020** has observed as under:

“As far as the provision of Section 18A and anticipatory bail is concerned, in cases where no prima facie materials exist warranting arrest in a complaint, the court has the inherent power to direct a pre-arrest bail.

I would only add a caveat with the observation and emphasize that while considering any application seeking pre-arrest bail, the High Court has to balance the two interests: i.e. that the power is not so used as to convert the jurisdiction into that under Section 438 of the Criminal Procedure Code, but that it is used sparingly and such orders

made in very exceptional cases where no prima facie offence is made out as shown in the FIR, and further also that if such orders are not made in those classes of cases, the result would inevitably be a miscarriage of justice or abuse of process of law. I consider such stringent terms, otherwise contrary to the philosophy of bail, absolutely essential, because a liberal use of the power to grant pre-arrest bail would defeat the intention of Parliament.

8. In the case in hand, bail applicant Amrik Singh has been summoned under Section 452, 354, 323, 506, 148, 149 IPC and under Section 3 of the SC/ST Act. Bail applicant has placed on file a certificate issued by Tehsildar, Mansa, wherein he is shown to be a member of Ramdasia Sikh Caste, which has been recognized as Scheduled Caste as per “The Constitution (Scheduled Castes), Order 1950’. It is noteworthy that in order to bring an offence within the ambit of Section 3 of the SC/ST Act, the person accused of the offence must not be a member of a Scheduled Caste or a Scheduled Tribes. In the case in hand, prima facie, bail applicant Amrik Singh is shown to be a member of Scheduled Caste. Thus the bar created by Section 18 and 18-A of the SC/ST Act would not apply to the case in hand (in view of the authoritative pronouncement in **Prathvi Raj Chauhan’s case (supra)**). As regards the other offences under which bail applicant has been summoned i.e. under Section 452, 354, 323, 506, 148, 149 IPC, suffice it to state that no individual overt act has been attributed to the bail applicant, as far as the aforementioned sections are concerned.

9. As regards the offence under Section 4 of the SC/ST Act, as has already been discussed above, bail applicant has not been summoned by the court under the aforementioned section.

10. In view of the foregoing, the present bail application under Section 438 Cr.P.C. qua section 452, 354, 323, 506, 148, 149 IPC and under Section 3 of the SC/ST Act stands allowed subject to bail applicant Amrik Singh surrendering before the court subject to his furnishing of bail/surety bonds, in the sum of Rs.50,000/- within 10 working days from today itself and also subject to the conditions laid down in Section 438(2) (i)(ii) and (iii) of the Code of Criminal Procedure. However, it is made clear that in the event of non surrendering by the bail applicant before the court during the specified period, the benefit of bail allowed to the applicant shall stand cancelled. Bail application file be attached with main challan file which be returned to Ahlmad.

Pronounced on : 16.11.2022

(Manjot Kaur)
Addl. Sessions Judge,
Special Court, Mansa
(U.I.D. No.PB0097)

Tarsem Kumar

CNR No.PBMN010043572022

CIS No.BA/1428/2022

Amrik Singh Vs Balvir Kaur

Present; Shri Sehajpal Singh Mander, Advocate, counsel for
applicant-accused.
Shri Kuldeep Singh Dhaliwal, Advocate, counsel for
respondent/complainant.

Main file put up by Ahlmad is perused. Arguments heard.

Vide my separate detailed order of even date, present bail application
under Section 438 Cr.P.C. qua section 452, 354, 323, 506, 148, 149 IPC
and under Section 3 of the SC/ST Act stands allowed. Bail application file
be attached with main file which be returned to Ahlmad.

Pronounced on : 16.11.2022

(Manjot Kaur)
Addl. Sessions Judge,
Special Court, Mansa
(U.I.D. No.PB0097)

Tarsem Kumar