

Cr.MP(M) No. 1038 of 2009

30.11.2009 Present: Accused in person with Mr. Bimal Gupta, Advocate.
Ms.Shubh Mahajan, Dy.A.G., for the respondent.

The police report received. A case has been registered against the petitioner in FIR No.318/2009, Police Station, Manali, under Sections 147, 148, 323 and Section 3(1)(10) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

An application for bail does not lie under Section 438 Cr.P.C. in case the FIR has been registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, the petitioner has surrendered to this Court and as such he is entitled to the grant of bail. The learned counsel for the petitioner has also relied upon a decision of this Court in **Baldev Singh Bhardwaj versus State of H.P., 2003 (2) Shim.L.C. 55**, wherein on similar facts, it was held that once a case is registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the accused surrenders before the Court, he is deemed to be in custody for the purpose of Section 439 Cr.P.C. Therefore, he has a right to move the Court for grant of bail.

The petition is accordingly allowed. The petitioner shall be released on bail on his furnishing personal bond in the sum of Rs.10,000/-, with one surety in the like amount, to the satisfaction of the Additional Registrar (Judicial) of this Court during the course of the day today. It is also directed that the petitioner shall join investigation as and when called by the police. The petition stands disposed of accordingly.

Dasti copy.

November 30, 2009.
(SDS)

(V.K. Ahuja), J.