

2025:PHHC:083349



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1944-2023
RESERVED ON: 06.03.2025
PRONOUNCED ON:29.05.2025

SUKHWINDER SINGH AND ANR.APPELLANTS

VERSUS

STATE OF PUNJAB AND ANOTHERRESPONDENTS

CRA-S-2460-2024 (O&M)

RITIK CHOUDHARYAPPELLANT

VERSUS

STATE OF HARYANA AND ANOTHERRESPONDENTS

CRA-S-2313-2024

PANKAJAPPELLANT

VERSUS

STATE OF HARYANA AND ANOTHERRESPONDENTS

CRA-S-3722-2024 (O&M)

JAGDISH AND OTHERSAPPELLANTS

VERSUS

STATE OF HARYANA AND ANOTHERRESPONDENTS

CRA-S-2303-2024

SUMIT KUMARAPPELLANT

VERSUS

STATE OF HARYANA AND ANOTHERRESPONDENTS

CRA-S-1696-2024

RANJOT SINGH ALIAS RANJODH SINGH ALIAS JODHA
.....APPELLANT

VERSUS

STATE OF PUNJAB AND ANOTHER
.....RESPONDENTS

CRA-S-1382-2024

SADASHIV OZA @ SADASHIV OHZA
.....APPELLANT

VERSUS

STATE OF PUNJAB AND ANOTHER
.....RESPONDENTS

CRA-S-4178-2024 (O&M)

BABU RAM
.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER
.....RESPONDENTS

CRA-S-4096-2024

AMIT
.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER
.....RESPONDENTS

CRA-S-349-2024

RAMPAL
.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER
.....RESPONDENTS

CRA-S-3972-2024

ARUN CHAUHAN
.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER
.....RESPONDENTS

CRA-S-2100-2024

ANUP SINGH DAHIYA

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CRA-S-1025-2024 (O&M)

KIRTAN SINGH AND ANR.

.....APPELLANTS

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CRA-S-2072-2024

NAR SINGH

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CRA-S-2012-2024

JASWANT SINGH

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CRA-S-318-2025

SAGAR

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jagjeet Singh Cheema, Advocate
for the appellants in CRA-S-1944-2023

Mr. H.S. Rakhra, Advocate
for the appellant(s) in CRA-S-1025-2024.

Dr. S.K. Bhar, Advocate with
Mr. Johan Kumar, Advocate
for the appellant(s) in CRA-S-2313-2024.

Mr. Ashok Kumar Sharma (Bhana), Advocate
for the appellant(s) in CRA-S-4096-2024.

Mr. Naveen Bawa, Advocate
for the appellant(s) in CRA-S-1382-2024.

Mr. Amit Khatkar, Advocate
for the appellant(s) in CRA-S-349-2024.

Mr. Karan Singh, Advocate for
Mr. Bhisham Kumar Majoka, Advocate
for the appellant(s) in CRA-S-2460-2024.

Mr. Pawan Kumar Hooda, Advocate
for the appellant(s) in CRA-S Nos.2012, 2072, 2100 of 2024.

Mr. Ashwani Verma, Advocate
for the appellant(s) in CRA-S Nos.3722 & 4178 of 2024.

Mr. R.K. Chaudhary, Advocate for
the appellant(s) in CRA-S-3972-2024.
Mr. Sandeep, Advocate for
the appellant(s) in CRA-S-2303-2024.

Ms. Pallavi Babbar, Advocate
for the appellant in CRA-S-318-2025.
Mr. Jaspal Singh Guru, AAG Punjab

Mr. Chetan Sharma, DAG Haryana
Mr. Baljinder Singh Virk, Senior DAG Haryana

Mr. Nikhil Mittal, Advocate
for respondent No.2/complainant in CRA-S-349-2024.

Mr. Amrik Singh, Advocate for
respondent No.2 in CRA-S-1944-2023.

Mr. Vikas Lochab, Advocate and
Mr. Gaurav Jain, Advocate for the complainant.

SANDEEP MOUDGIL, J

1. The instant bunch of appeals is being adjudicated by a common order, wherein a common question of law emerged during the course of hearing though on different dates but to decide the same all the appeals were

clubbed together and were heard on 06.03.2025 and the verdict was kept reserved.

2. Though the counsel for appellants submitted the version of complaint at first to demonstrate that even as per the complaint filed before Chief Judicial Magistrate SAS Nagar under Section 3 & 4 of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act') and referred to the order dated 11.01.2023 (Annexure A-2), whereby he has been summoned under Section 3(vii) of the Act and vide order dated 15.04.2023, he has been declined the concession of anticipatory bail.

3. It is against the order dated 15.04.2023, the present appeal came to be filed with the urge that the complainant is wife of one Deepak Pathania, who is an accused in FIR No.41 dated 08.04.2019 lodged by sister of appellant No.2, who is also wife of appellant No.1. The sister of appellant No.2 namely Ranjana has alleged the offences under Sections 376 and 420 of IPC against appellant No.1 in that FIR dated 08.04.2019, wherein the appellant No.2 is stated to be a witness as well. The present complainant being wife of Deepak Pathania accused in the aforesaid FIR has registered the instant complaint as a counter-blast to the aforesaid FIR particularly against appellant No.2 and appellant No.1 has also been dragged herein with false allegation and Mr. Jagjit Singh Cheema, learned Advocate has stressed much on the fact that the complainant is not even personally known to appellants as well as about her caste. Mr. Cheema would further submit that earlier a complaint was moved by the complainant before the National Commission for Scheduled Caste, which was forwarded to Senior Superintendent of Police, SAS Nagar, Mohali and in that complaint the appellants were found innocent after investigation, which was consigned to record vide order dated 27.05.2019 (Annexure A-3).

4. Mr. Cheema has argued false implication in the instant complaint also stating that according to the allegations and narrated facts of the complaint the appellants used foul language in front of a showroom which is a public place but there is no iota of evidence that anybody heard about such alleged utterances, if any made by the appellants since there is no independent witness available to support the version. Mr. Cheema would also submit that to the alleged place of occurrence police station is nearby but no such complaint was ever made qua the incident to the police authorities and straightway the complaint under Sections 3 & 4 of the Act was filed before the Chief Judicial Magistrate, SAS Nagar Mohali. It is also the case on behalf of the appellant that according to the complaint the admitted date of alleged occurrence is 04.09.2018, whereas the complaint came to be filed on 17.12.2011 (Annexure P-2) bearing Criminal Complaint No.335 of 2021, which suffers from inordinate and unexplained delay, which is sufficient to make out the case of false implication against the appellants.

5. It is also undertaken before this Court that in case the appellants are admitted to anticipatory bail, they are ready to join the investigation and undertook to abide by any terms and conditions as deemed appropriate by this Court.

6. Mr. Jaspal Singh Guru, AAG Punjab would though raises a preliminary objection before answering to the merits to the effect that the instant appeals are not maintainable inasmuch as the remedy would lie under Section 482 Cr.P.C. (now Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS, 2023')).

7. At the outset, learned State counsel submits that the present appeal, purportedly filed under Section 14-A of the Act is not maintainable in law, inasmuch as the same seeks appellate intervention in a matter concerning

anticipatory bail, which stands specifically barred by virtue of Section 18 of the Act.

8. He further submits that Section 18 of the Act categorically bars the application of Section 438 of the Cr.P.C. (now Section 482 BNSS) thereby ousting the jurisdiction of any Court to entertain an application for anticipatory bail in cases involving offences under the SC/ST Act, where a prima facie case is made out. The Hon'ble Apex Court has consistently held that this bar is to be interpreted strictly and must be given full effect, reflecting the legislative intent to provide effective protection to members of the Scheduled Castes and Scheduled Tribes.

9. He asserts that Section 14-A of the Act, inserted by the Amendment Act of 2015 (w.e.f. 26.01.2016), provides for an appeal against any judgment, sentence, or order passed by a Special Court or the Exclusive Special Court, and is intended to cover orders pertaining to trial proceedings or regular bail. However, the said provision does not dilute or override the specific bar under Section 18, which remains intact and continues to operate with full force.

10. He further asserts that the filing of an appeal under Section 14-A of the Act against the dismissal of an anticipatory bail application by the Special Court is, therefore, misconceived and not tenable in law. The appeal jurisdiction cannot be invoked to circumvent a statutory bar created by the Legislature through Section 18 of the Act.

11. It is further argued that the Hon'ble Supreme Court, in its catena of judgments, including but not limited to ***Prathvi Raj Chauhan v. Union of India [(2020) 4 SCC 727]***, has held that where no prima facie case is made out, the Courts may exercise their inherent jurisdiction under Section 482 Cr.P.C. (now Section 528 BNSS) and in exceptional circumstances, grant

anticipatory bail, notwithstanding the bar under Section 18 of the Act. However, the proper remedy in such a scenario lies not in appeal, but by invoking the inherent jurisdiction of the Hon'ble High Court under Section 482 Cr.P.C. (now Section 528 of the BNSS, 2023).

12. Therefore, the contention of the appellant that the present appeal is maintainable under Section 14-A of the Act is based on an erroneous reading and misinterpretation of the provision. The bar under Section 18 of the Act is substantive and has not been repealed or rendered otiose by the insertion of Section 14-A of the Act. In fact, the legislative intent is abundantly clear that Section 18 of the Act was meant to operate independently and restrictively, so as to exclude anticipatory bail in such cases, unless no prima facie case is disclosed.

13. In the light of above, he prays for dismissal of all the appeals being not maintainable.

14. Heard learned counsel for the respective parties.

15. This Court deems it appropriate to adjudicate the preliminary objection before advertng to the merits of these appeals on which Mr. Guru assisted to the Court while arguing that there is specific bar under Section 18 of the Act for the grant of anticipatory bail in an offence under the Act and insertion of Section 14-A by the Amendment of 2015 does not itself mean that anticipatory bail is maintainable before this Court. It would be useful to reproduce Sections 14-A and 18 of SC/ST Act, 1989 as both are to be read in consonance with each other and the same read as under:-

“[14A. Appeals.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law. (2) Notwithstanding

anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail. (3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from: Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days: Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days. (4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.]

18. Section 438 of the Code not to apply to persons committing an offence under the Act.— Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”

16. On a careful examination of the relevant statutory provisions, this Court is of the considered view that Section 18 of the Act imposes an absolute bar on the grant of anticipatory bail in cases involving offences under the Act. The subsequent insertion of Section 14-A of the Act was intended solely to provide a statutory right of appeal against any judgment, sentence, or order passed by a Special Court or Exclusive Special Court, particularly in the context of trial proceedings or regular bail. It was not intended to extend appellate jurisdiction to the matters concerning anticipatory bail, which continue to remain expressly barred under Section 18 of the Act.

17. The Apex Court in ***Dr. Subhash Kashinath Mahajan vs The State Of Maharashtra and another (2018) 6 SCC 454*** observed as under:-

“There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper Castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care in proceeding under section 482 of the Cr.PC.

18. Earlier to the above in ***Shakuntla Devi vs Baljinder Singh (2014) 15 SCC 521***, the Apex Court has observed as under:-

Concerning the provisions contained in section 18A, suffice it to observe that with respect to preliminary inquiry for registration of FIR, we have already recalled the general directions (iii) and (iv) issued in Dr. Subhash Kashinath's case (supra). A preliminary inquiry is permissible only in the circumstances as per the law [laid down by](#) a Constitution Bench of this Court in [Lalita Kumari v. Government of U.P.](#), (2014) 2 SCC 1, shall hold good as explained in the order passed by this Court in the review petitions on 1.10.2019 and the amended provisions of section 18A have to be interpreted accordingly.

9. The section 18A(i) was inserted owing to the decision of this Court in [Dr. Subhash Kashinath](#) (supra), which made it necessary to obtain the approval of the appointing authority concerning a public servant and the SSP in the case of arrest of accused persons. This Court has also recalled that direction on Review Petition (Crl.) No.228 of 2018 decided on 1.10.2019. Thus, the provisions which have been made in section 18A are rendered of

academic use as they were enacted to take care of mandate issued in [Dr. Subhash Kashinath](#) (supra) which no more prevails. The provisions were already in [section 18](#) of the Act with respect to anticipatory bail.

10. Concerning the applicability of provisions of [section 438](#) Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply. We have clarified this aspect while deciding the review petitions.”

19. It is also recorded in the judgment by the Apex Court that in exceptional cases for quashing the cases to prevent misuse of the provisions on settled parameters power under Section 482 Cr.P.C., (now Section 528 BNSS) can be exercised by the Court.

20. Taking note of the fact that even where other offences of IPC are mentioned in the FIR alongwith Section 3(1)(x) of the Act. Section 18 of the Act do not entitle the accused for anticipatory bail in view of the absolute bar created under Section 18 of the Act, which categorically states that Section 438 Cr.P.C., do not apply to the persons committing an offence under the Act. There cannot be any iota of doubt that Section 438 Cr.P.C., deals only in a situation where the accused is soliciting anticipatory bail.

21. The intent of legislation is thus very clear and in fact there is no second thought rather to make the proposition more explicit Section 14-A was inserted w.e.f. 26.01.2016 vide Act No.1 of 2016 simpliciter providing an appeal against any judgment sentence or which is not interlocutory order of a Special Court to be filed before the High Court both on factual as well as on legal grounds.

22. Now posing a question on the proposition under test before this Court i.e. whether Section 14-A would be applicable in case of denial of

anticipatory bail by a Special Court or an exclusive Special Court, the primary objection was raised by the State on maintainability of the instant appeals.

23. The argument raised by the State bears weight with the plain and clinical reading of Section 14-A of the Act that the necessity, object and purpose of inserting the new provision is only to elaborate the procedure in case bail is sought by an accused for an offence under the SC & ST Act.

24. The word 'bail' would mean regular bail only since there is specific absolute bar for grant of anticipatory bail by way of non-applicability of Section 438 Cr.P.C. (now Section 482 BNSS 2023) for an offence under the Act, meaning thereby Section 14-A of the Act by no means can be read as a provision inserted to facilitate seeking anticipatory bail and filing of instant appeal after rejection of anticipatory bail under Section 438 Cr.P.C., (now Section 482 BNSS 2023) in itself would not be maintainable before the Special Court.

25. A cumulative reading of Sections 18, 18-A and 14-A of the Act, which is actually the essence to understand the remedial measures provided to an accused makes it crystal clear that a petition under Section 438 Cr.P.C. (now Section 482 BNSS, 2023) would not lie at all even before a Special Court or an exclusive Special Court or even before the High Court.

26. It is also worth mention here that Section 14-A is in addition to already existing Sections 18 & 18-A in the Act and not in derogation or in separation to these two provisions.

27. Hon'ble Justice Arun Mishra while speaking for the Larger Bench of the Apex Court in "***Prithvi Raj Chauhan vs. Union of India and Ors. 2020(4) SCC 727***" went further examining the issue that there may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can

be taken care of in proceeding under Section 482 Cr.P.C., (now Section 528 BNSS, 2023) and concluded with the finding that the Court can, in exceptional cases go to the extent of exercising power under Section 482 Cr.P.C., (now Section 528 BNSS, 2023) for quashing the cases to prevent misuse of provisions on settled parameters if it found prima facie no case is made out.

28. Further the view of this Court gets strengthened from another judgment of the Apex Court rendered in the case of ***Vilas Pandurang Pawar & Anr vs State Of Maharashtra & Ors, 2012 AIR SCW 4852***. The relevant part of the said judgment read as under:-

“9) The scope of [Section 18](#) of the SC/ST Act read with Section 438 of the Code is such that it creates a specific bar in the grant of anticipatory bail. When an offence is registered against a person under the provisions of the SC/ST Act, no Court shall entertain application for anticipatory bail, unless it prima facie finds that such an offence is not made out. Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. Court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the [Special Act](#) to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the [Special Act](#) cannot be easily brushed aside by elaborate discussion on the evidence.

10) Learned counsel appearing for the petitioners, relying on the decisions of the Delhi High Court in [Dr. R.K. Sangwan & Anr. vs. State](#), 2009 (112) DRJ 473 (DB) and in Crl. M.C. No. 3866/2008 and Crl.M.C. No. 1222/2009 titled [M.A. Rashid vs. Gopal Chandra](#) decided on 23.03.2012 and a decision of the Orissa High Court in [Ramesh Prasad Bhanja & Ors. vs. State of Orissa](#), 1996 Cri. L.J. 2743, submitted that in spite of the specific bar under Section 438 of the Code, the Courts have granted

anticipatory bail to the accused who were charged under [Section 3\(1\)](#) of the SC/ST Act.

11) In view of the specific statutory bar provided under Section 18 of the SC/ST Act, the above decisions relied on by the petitioners cannot be taken as a precedent and as discussed above, it depends upon the nature of the averments made in the complaint.

12) In view of the above discussion and in the light of the specific averments in the complaint made by the complainant-respondent No.3 herein, we are of the view that Section 18 of the SC/ST Act is applicable to the case on hand and in view of the same, the petitioners are not entitled to anticipatory bail under Section 438 of the Code. Accordingly, the special leave petition is dismissed. However, it is made clear that the present conclusion is confined only to the disposal of this petition and the trial Court is free to decide the case on merits.”

29. In light of the foregoing discussion, this Court is bound to adhere to the statutory scheme and the clear mandate of the Legislature. The Hon’ble Supreme Court has consistently held that while exercising appellate or inherent jurisdiction, the High Courts cannot traverse beyond the provisions of the statute, and must confine their adjudication within the legal framework established by the Legislature.

30. The above-said principle has been reiterated by the Apex Court in the case of ***State Of Jharkhand & Ors vs Ambay Cements & Anr*** AIR 2005 ***Supreme Court 4168***. The relevant extract of the same reads as under:-

“Whenever the statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of the interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way. It is also settled rule of interpretation that where a statute is penal in character, it must be strictly construed and followed. Since the requirement, in the instant

case, of obtaining prior permission is mandatory, therefore, non-compliance of the same must result in canceling the concession made in favour of the grantee-the respondent herein.”

31. Further dependence can be placed upon ***Jaishri Laxmanrao Patil vs The Chief Minister And Ors. AIR online 2021 SC 240***. The relevant extract of the same reads as under:-

“12. It is a recognised rule of interpretation of statutes that the expressions used therein should ordinarily be understood in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the legislature²¹. However, the object-oriented approach cannot be carried to the extent of doing violence to the plain language used by rewriting the section or structure words in place of the actual words used by the legislature. The logical corollary that flows from the judicial pronouncements and opinion of reputed authors is that the primary rule of construction is literal construction. If there is no ambiguity in the provision which is being construed there is no need to look beyond. Legislative intent which is crucial for understanding the object and purpose of a provision should be gathered from the language. The purpose can be gathered from external sources but any meaning inconsistent with the explicit or implicit language cannot be given.”

32. In the present case, the legislative intent is unequivocal Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which bars the grant of anticipatory bail where even if a prima facie case is made out, has not been repealed, amended, or diluted by the subsequent insertion of Section 14-A. The said provision [Section 14-A] merely provides a statutory right of appeal against orders passed by the Special or Exclusive Special Courts, primarily in the context of regular bail, conviction, or trial-related orders, and cannot be interpreted to override or nullify the specific bar contained in Section 18.

33. Having elaborated as above in the discussions supported by enunciated case law, I hereby have no hesitation to hold that the present appeals are not maintainable under Section 14-A of the Act. This Court would go a step further even to decide that a petition under Section 482 BNSS, 2023 (Section 438 Cr.P.C.) would not lie, in view of the absolute bar created vide Section 18 of the Act and since that provision is binding, mandatory and not directive. In case the arrest of the accused is found to be illegal or is challenging the quashing of FIR being illegal may seek stay of arrest or get the arrest declared illegal and violative of constitutional law. The appropriate relief can be sought under Section 528 of BNSS (earlier Section 482 Cr.P.C.).

34. Without adverting to the merits of the case on facts, the appeals challenging the order vide which anticipatory bail to the appellants was rejected are held to be not maintainable and hereby ordered to be dismissed.

35. However, the appellants would be at liberty to avail appropriate remedy as provided under law by way of petition under Section 528 BNSS, 2023, if so advised.

36. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

29.05.2025

Meenu

1. *Whether speaking/ reasoned* : Yes /No
2. *Whether reportable* : Yes /No