

C. R. M. (A) 509 of 2025

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 10.02.2025 in connection with Belghoria Police Station Case No.23 of 2025 dated 23.01.2025 under Section 79 of the Bharatiya Nyaya Sanhita, 2023 and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In Re: ***Shib Kumar Bhadra & Ors.***

... .. Petitioners

Mr. Tapas Ghosh
Mr. Purnasish Gupta
Mr. Mukul Kumar Mitra
Mr. Jayanta Kumar Mukhopadhyay
... .. for the petitioners

Mr. Pratim Dasgupta
... .. for the de-facto complainant

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mrs. Manasi Roy
... .. for the State

1. It is submitted on behalf of the petitioners that petitioner no.1 has a long standing dispute with his nephew and niece. Petitioner no.2 is his wife. Petitioner no.3 is his employee. A series of cases are pending between petitioner no.1 and his agnates including his nephew and niece. Petitioner no.1's nephew and niece are practicing advocates. De-facto complainant is their law clerk. She has been utilized to lodge a false case against them.

2. It is contended imputations against the de-facto complainant-clerk by taking her caste name are false. Even if believed to be true, the imputations were made inside a lawyer's chamber when no one was present. Accordingly, ingredients of the offence punishable under Section 3(1)(r)/(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as 'Act of*

1989') are not disclosed. Accordingly, the application for anticipatory bail is maintainable and may be granted.

3. We have considered the materials on record. In *Shajan Skaria vs. State of Kerala*¹, the Apex Court held bar under Sections 18/18A of the Act of 1989 with regard to maintainability of an application for anticipatory bail in respect of offences under the Act is not absolute. The court has limited jurisdiction to examine the allegations in the FIR and other materials collected during investigation to satisfy itself whether the ingredients of the alleged offences are disclosed. However, issue of mala fides cannot be gone into.

4. Section 3(1)(r)/(s) of the Act of 1989, inter alia, makes intentional insult, intimidation or abuse of a member of the Scheduled Caste or Scheduled Tribe community in any place within public view punishable.

5. Allegations in the FIR show the de-facto complainant, a lawyer clerk had gone to the lawyer's chamber. At that time petitioner nos.1 and 2 abused her by taking her caste name. The lawyer's chamber is situated in an undivided residential house occupied by the petitioners as well as other co-owners. Nothing is placed on record to show a third party was present in the lawyer's chamber. Even the statement of the lawyer has not been recorded. Subsequent statement of the de-facto complainant shifts the place of occurrence from the lawyer's chamber (as per FIR) to a staircase leading to the chamber.

6. This, in our estimation, is a desperate effort to drag the place of occurrence from a private quarter to a public place and thereby attract Section 3(1)(r)/(s) of the Act of 1989. Subsequent statement showing shift of place of occurrence is wholly inconsistent with the FIR and inherently improbable.

¹ 2024 SCC OnLine SC 2249

7. In light of the aforesaid facts, we are of the prima facie view allegations in the FIR in respect of hurling abuses, insinuations by taking caste name were not in a place having public view and shift of place of occurrence in the subsequent statement being inherently improbable, ingredients of the alleged offences are not disclosed. The application of anticipatory bail is maintainable.

8. With regard to the nature of crime, we note there is a long standing dispute between petitioner no.1 and his other family members. De-facto complainant is the law clerk of petitioner no.1's nephew/niece. Possibility of setting up the de-facto complainant to malign the petitioners and implicate them in a false case cannot be ruled out.

9. Under such circumstances, we are of the opinion custodial interrogation of the petitioners is not necessary and they may be granted anticipatory bail.

10. Accordingly, we direct in the event of arrest, the petitioners, namely, **(1) Shib Kumar Bhadra, (2) Moumita Bhadra & (3) Samiran Laha**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition that the petitioners shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

11. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)