



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

208

**CRA-S-753-2026 (O&M)
Date of Decision: 29.04.2026**

Aatish Gahlawat

....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Ms. Shivansh Malik, Advocate for the appellant.

Ms. Shaveta Sanghi, DAG, Haryana.

Mr. Ashwani Bhardwaj for respondent No.2.

RUPINDERJIT CHAHAL, J (ORAL)

1. Present appeal is directed against the order dated 26.02.2026 passed by the learned Additional Sessions Judge, Rohtak dismissing the application of the appellant for grant of anticipatory bail in case FIR No.47 dated 15.02.2026 registered under Section 79 of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 at Police Station City Rohtak, District Rohtak.

2. The brief facts of the present case are that the appellant insulted the complainant in the name of her caste over a tenancy dispute. Hence the present FIR.

3. Learned counsel for the appellant contended that the appellant has been falsely implicated in the present case, as there has been a longstanding tenancy-related dispute between the parties. He further submitted that the complainant party had threatened the appellant with false



criminal cases, and the same had already been brought to the notice of the police by the appellant much prior to the registration of the present FIR. He contended that the dispute between the parties is purely civil in nature, which has been given a criminal colour by the complainant with the sole purpose to pressurise the appellant into settling the tenancy dispute, which is already pending before the civil court between the parties. He further submitted that there is a delay in the registration of the FIR, as the alleged conversation between the parties took place on 23.01.2026, whereas the FIR came to be registered only on 15.02.2026, which casts serious doubt upon the prosecution's case. He argued that the learned trial Court erroneously invoked the bar contained under Section 18 of the SC/ST Act without examining whether the basic ingredients of the alleged offence are made out from the record. He contended that the alleged conversation between the appellant and the complainant took place over a phone call, which cannot be said to have occurred in public view. Hence, the essential ingredient required to attract the provisions of the SC/ST Act is missing. He further submitted that nothing is to be recovered from the petitioner and that the petitioner has clean antecedents. It is further submitted that the petitioner is ready and willing to join the investigation. With these broad submissions, it is urged that the present appeal deserves to be allowed, the impugned order is liable to be set aside, and the appellant deserves to be granted the benefit of pre-arrest bail.

4. Learned State counsel, had already filed status report, and relying upon the same she vehemently opposed the prayer for bail, stating that the offence committed by the appellant is serious in nature and the bar under section 18 of the SC/ST Act is applicable. Hence, she prayed that the



5. Learned counsel for Respondent No.2/complainant has also vehemently opposed the present appeal and submitted that the appellant had intentionally insulted the complainant in the name of her caste over phone call. Hence, he prayed that the appellant deserves no concession from this Court, and the present appeal is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

7. In the present appeal, the allegations against the appellant primarily stem from a telephonic conversation between the parties. Even if the allegations are taken at face value, the purported incident having occurred over a phone call cannot be construed as having taken place “in public view,” which is a sine qua non for attracting the provisions of the SC/ST Act. In the absence of this essential ingredient, the applicability of the bar under Section 18 of the SC/ST Act is rendered doubtful at this stage. Additionally, there is pre-existing civil dispute between the parties, which is already pending adjudication before competent Court. Nothing is to be recovered from the appellant, who is stated to have clean antecedents and has expressed willingness to join the investigation. In these circumstances, without commenting upon the merits of the case, this Court is of the considered view that the appellant has made out a case for grant of pre-arrest bail and the bar of section 18 of SC/ST Act is not attracted in the present case. In *Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454*, the Hon'ble Supreme Court observed that anticipatory bail could be granted if a prima facie case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false.



8. More recently, the Hon'ble Supreme Court in ***Kiran v. Rajkumar Jivraj Jain and Anr., 2025 AIR (SC) 4083***; has held that in a given case if on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused. The relevant paragraphs are reproduced below:

“6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes Act, 1989 with express language excludes the applicability of Section 438, Cr. P.C., it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1. The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2. Non-making of prima facie case about the commission of

offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial."

.....emphasis supplied

9. Consequently, in view of the facts and circumstances of the present case and the law laid down by the Apex Court, the present appeal is allowed, the impugned order passed by the learned Additional Sessions Judge, Rohtak is set aside, and the appellant is ordered to be released on anticipatory bail in the event of his arrest, subject to his furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer and subject to the conditions as envisaged under Section 482(2) BNSS.

10. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

29.04.2026
Puneet....

(RUPINDERJIT CHAHAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No