



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

208

**CRA-S No.1131 of 2026 (O&M)
Date of Decision: 19.05.2026**

Hussain

.....Appellant

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Sushil Sheoran, Advocate for the appellant.

Ms. Deepali Verma, AAG, Haryana.

None for the respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

The appellant has filed the present appeal under Section 14-A of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, hereinafter being referred to as 'SC and ST Act' only. It has been filed to challenge the order dated 09.02.2026, hereinafter being referred to as 'impugned order' only, passed by the learned Additional Sessions Judge/Judge Special Court under the SC and ST Act, Bhiwani, hereinafter being referred to as 'trial Court' only, whereby, the regular bail application filed by the appellant was dismissed in a case arising out of FIR No.397 dated 05.09.2024, for the offence under Sections 238(A)(2), 351(2), 356(2) of Bharatiya Nyaya Sanhita, 2023, Section 66-E of I.T Act and 3(2) (VA) of SC and ST Act, Police Station City Bhiwani, District Bhiwani.

2. Briefly stating the facts emerging from record are that the FIR of



this case came into being at the instance of 'Jogender', hereinafter being referred to as 'complainant' only. It was stated by the above named complainant that he belonged to scheduled caste, and that his 16 years old daughter was targeted online by a person who made his ID on social media platform in the name of 'Akhil Pardhan'. According to complainant in the above mentioned account the morphed photograph of his daughter, and obscene and derogatory remarks were posted, and thus, the above mentioned offence has been committed.

3. It is the case of the prosecution that on the basis of above mentioned complaint formal FIR of this case was lodged and the investigation taken up.

4 As per office report, service has already been effected upon the respondent No.2, but despite service he is unrepresented.

5 Reply filed on behalf of state is already on record.

6. Heard.

7. It has been contended by learned counsel for the appellant that the appellant in this case was arrested on 22.05.2025, and thus, he is in custody for a period of almost one year and the trial is not likely be concluded in near future. It has also been contended by learned counsel for the appellant that the alleged language used by the appellant does not amount to an offence, within the definition of Section 3(iv) of SC&ST Act, and therefore, appellant is entitled to the benefit of bail.

8. The learned State counsel has controverted the above mentioned arguments. According to leaned State counsel since the minor daughter of the



complainant has been intimidated which is an offence under Section 506 IPC and she has been insulted by a derogatory post, in view of Section 3(1)(r) of the SC & ST Act, it amounts to an offence. As per learned State counsel thus the offence committed by the appellant comes within the ambit of SC & ST Act.

9. The record has been perused carefully.

10. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present appeal:-

- i) that the appellant is already in custody for a period of almost one year;
- ii) that the investigation in this case is already complete, and therefore, nothing has been left to be recovered from the possession of appellant;
- iii) that the trial is taking place at a slow pace as out of thirteen prosecution witnesses only six witnesses have been examined so far;
- iv) that the detention of the appellant in judicial lock up is not likely to serve any purpose;
- v) that there is nothing on record to show that if released on bail, the appellant is likely to tamper with the evidence, or influence the witnesses;
- vi) that there is nothing on record to show that if appellant is



released on bail, he will not participate/co-operate in the trial.

11. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case".

12. The principles laid down by the Hon'ble the Supreme Court of



India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

14. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable,



fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon'ble Apex court in 'Balwinder Singh versus State of Punjab and another' 2024 SCC Online SC 4354.

15. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the appellant is entitled to bail, and that an error of judgment has been committed by the learned trial Court, when it declined the benefit of bail to the appellant. In the given fact-situation it is held that the impugned order (ibid) is devoid of merit and deserves to be set aside. Hence, by **accepting the present appeal** the impugned order is hereby set aside.

16. In view of above mentioned observations, the appellant is hereby admitted to bail on furnishing bail bonds to the satisfaction of the learned trial Court concerned/Illaqa Magistrate/Duty Magistrate, subject to the following conditions:-

- i) that the appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from closing such facts to the Court or to any other authority;
- ii) that the appellant shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final disposal of the case; and
- iii) that the appellant shall not leave India without prior permission of the trial Court.



17. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present appeal and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

19.05.2026
Manoj Bhutani

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