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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal-S No.1363 of 2026

G@ A ... Appellant

Versus

State of Haryana and another ... Respondents

1.	The date when the judgment is reserved	06.05.2026
2.	The date when the judgment is pronounced	08.05.2026
3.	The date when the judgment is uploaded on the website	8.05.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sanjay Verma, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent.

Mr. Arvind Kumar Dhiman, Advocate,
for the respondent No.2-complainant.

MANISHA BATRA, J.

1. The instant appeal has been filed under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

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Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 09.04.2026 passed in case arising out of FIR No.620 dated 29.09.2024 registered under Sections 3(5), 115(2), 126, 190, 191(3), 333 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (For short "BNS") and Section 3(1) (r) (s) of the SC/ST Act at Police Station Krishna Gate, Thanesar, Kurukshetra, District Kurukshetra, whereby an application for grant of anticipatory bail as filed by the appellant, had been dismissed.

2. Brief facts relevant for the purpose of disposal of the present appeal are that on 29.09.2024, the appellant accompanied by the co-accused had wrongfully restrained the complainant, committed house trespass after making preparation for causing hurt to him and had further caused hurt to him by striking blows with gandasi, danda and sword. The respondent No.2-complainant who belongs to Scheduled Caste community prayed for taking action in the matter and then the aforementioned FIR was registered. Apprehending his arrest, the appellant moved an application for grant of anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Kurukshetra vide order dated 09.04.2026.

3. It is argued by learned counsel for the appellant that the impugned order dated 09.04.2026 is not sustainable in the eyes of law as while passing the same, the Court of learned Additional Sessions Judge did not take into consideration the fact that the injuries that have been sustained by the respondent No.2 have been opined to be simple in nature. There is no material on record to prove that he had intentionally insulted or intimidated

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the complainant with intent to humiliate him or had abused him by the name of his caste in any place within public purview. The ingredients for commissions of offences punishable under Section 3(1) (r) (s) of SC/ST Act are not at all attracted and, therefore, the bar under Section 18 of SC/ST Act was also not attracted in this case. It is argued that the Court of learned Additional Sessions Judge did not take all these points into consideration at the time of dismissal of the bail application. The co-accused has been extended benefit of bail. A compromise has been arrived at between the respondent No.2 and himself and the respondent No.2 has no objection, if the appellant is extended benefit of anticipatory bail. It is, therefore, argued that the appeal deserves to be allowed, the impugned order is liable to be set aside and the appellant deserves to be extended benefit of pre arrest bail.

4. Written response has been filed by the respondent-State. It is argued by him that there is no illegality or infirmity in the impugned order. For conducting proper and thorough investigation in the matter, the custodial interrogation of the appellant is required. The ingredients for commission of offences punishable under Section 3(1) (r) (s) of SC/ST Act are attracted in this case and hence the bar under Section 18 of the SC/ST Act is applicable. It is, therefore, argued that the appeal does not deserve to be allowed.

5. Learned counsel for respondent No.2-complainant has submitted that infact a compromise has been arrived at between them and that the respondent No.2 has no objection, if the appeal is allowed.

6. This Court has heard the rival submissions made by learned

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counsel for the parties.

7. The appellant is alleged to have formed membership of an unlawful assembly with the co-accused on the fateful day and in prosecution of common object of that unlawful assembly, is alleged to have assaulted the complainant who belongs to Scheduled Caste community, thereby causing injuries to him. The injuries that have been sustained by the respondent No.2, have been opined to be simple in nature. All the offences under the provisions of BNS for which the appellant has been booked are triable by Magistrate except the offences under Section 3(1) (r) and (s) of SC/ST Act which are Sessions triable. On perusal of record, this Court is of the considered opinion that it is a question of debate as to whether the ingredients for commission of offences punishable under Section 3(1) (r) (s) of SC/ST Act are at all attracted or not since there is not even an iota of allegations in the FIR that the appellant or either of the co-accused had intentionally insulted or intimidated the appellant to humiliate him due to his being member of Scheduled Caste or had hurled abuses by caste name in public view. Even the status report is silent on this point. As such, this Court is of the considered opinion that no prima facie case for commission of offences punishable under the provisions of Section 3(1) (r) and (s) of SC/ST Act is made out. It is well settled proposition of law that anticipatory bail can be granted to an accused if a prima facie case for commission of an offence under the provisions of SC/ST Act is not made out or if it can be shown that the allegations are false. Reliance in this regard can be placed

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upon a decision rendered by the Hon'ble Supreme Court in **Dr. Subhash Kashinath Mahajan v. State of Maharashtra and another**, (2018) 6 SCC 454, wherein the Hon'ble Supreme Court had observed so. Further in **Shajan Skaria v. State of Kerala and another**, 2024 SCC OnLine SC 2249, it was observed by the Hon'ble Supreme Court that a duty is cast upon the Court to determine prima facie existence with a view to ensure that no unnecessary humiliation is caused to the accused. The Courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR infact discloses the essential ingredients required to constitute an offence under the SC/ST Act. It was further observed that if the accusation does not disclose the necessary ingredients of the offence on a prima facie reading, it cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the SC/ST Act and holding otherwise would mean that even a plain accusation, devoid of the essential ingredients required for constituting the offence, would be enough for invoking the bar under Section 18 of the said Act.

8. So far as the remaining offences are concerned, the same are triable by Magistrate. The respondent No.2 had sustained simple injuries at the hands of the complainant and the co-accused. Though no relevance can be given to the factum of any compromise having been arrived at between the respondent No.2 and the appellant at this stage, however, in view of the above discussed position of law and the facts peculiar to the present case as well as given the nature of the allegations as levelled against the appellant,

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this Court is of the considered opinion that the appellant who is a juvenile deserves to be extended benefit of anticipatory bail. Accordingly, the impugned order is set aside, the appeal is allowed and the appellant is ordered to be extended benefit of anticipatory bail, subject to his surrendering before the Investigating Officer/Arresting Officer within a period of ten days from the date of passing of this order and joining investigation/inquiry. On his surrender within that period, he shall be released on bail by the Investigating Officer/Arresting Officer on furnishing personal/surety bonds to his/her satisfaction. Since the appellant is a juvenile, therefore, bonds shall be furnished on his behalf by his mother/guardian.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

08.05.2026
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(MANISHA BATRA)
JUDGE

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