

2026.PHHC.032020



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

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**CRA-S-1870-2025 (O&M)
Date of decision: 26.02.2026**

Iqbal Singh Gill

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohd. Yousaf, Advocate
for the appellant.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Nikhil Vashisht, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short 'the SC/ST Act'*) by the appellant challenging the order dated 20.05.2025, passed by the learned Judge, Special Court, Jalandhar, whereby an application filed by him for grant of anticipatory bail in case arising out of FIR No. 28 dated 19.03.2025, registered under Section 103(1), 109, 118(1), 191(3), 190, 324(4), 351(2) of BNS, 2023 and Section 3(1)(s) of the SC/ST

Act at Police Station Jalandhar Cantt., District Jalandhar, had been dismissed.

2. As per the allegations, on the intervening night of 17/18.03.2025, a murderous assault was opened upon Harkaranjit Singh, son of the complainant Kulvir Singh, by the present appellant along with the co-accused, when he had gone to attend a birthday party of his friend. The victim had been admitted to the hospital but had succumbed to his injuries. On the basis of the statement recorded by his father/complainant Kulvir Singh, the aforementioned FIR has been registered and investigation proceedings have been initiated. Since the victim belonged to SC community, offence under Section 3(1)(s) of the SC/ST Act was also added. Accused Jatinder Singh @ Taji was arrested during the course of investigation. He suffered disclosure statement admitting his involvement as well as that of the appellant in commission of subject offences. The appellant on being nominated as accused and apprehending his arrest had filed an application for grant of anticipatory bail, which had been dismissed by learned Judge, Special Court, Jalandhar, vide impugned order dated 20.05.2025.

3. It is argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the Court concerned ignored the fact that there was inordinate and unexplained delay of two days in lodging of the FIR. In fact, some unknown persons had committed the subject offences. No specific role had been attributed to him. He was not even present at the place of occurrence. He has been implicated in this case only due to being brother-in-law of co-accused Simar, who has already been disowned by the family of the appellant since long. On the fateful day, he was present in his house and this fact can be

verified from the CCTV footage. He was not named in the FIR or even in the supplementary statement of the complainant. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. However, while passing the impugned order, the Court concerned did not take into consideration all these facts and wrongly dismissed his bail application by observing that bar under Section 18-A of the SC/ST Act was attracted. With these broad submissions, it is argued that the present appeal deserves to be accepted and the appellant deserves to be given benefit of pre-arrest bail.

4. *Per contra*, learned State counsel, assisted by learned counsel for respondent No.2/complainant, has argued that there are serious allegations against the appellant, who by forming membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, had opened a brutal assault upon the son of the complainant and had caused his homicidal death. The exact name of the appellant might not have been mentioned in the FIR but he was referred to as the brother-in-law of co-accused Simar. The ingredients for commission of offence punishable under Section 3(1)(s) of the SC/ST Act are prima facie attracted in this case. The offence allegedly committed by the appellant, being a scheduled offence under Section 103 of BNS, attracts the bar under Section 18-A of the SC/ST Act. The Court concerned did not commit any error while declining the prayer made by the appellant on this ground. The custodial interrogation of the appellant is must for thorough investigation in the matter. Therefore, it is argued that the appeal is liable to be dismissed.

5. This Court has heard the rival submissions.

6. The appellant is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, is alleged to have inflicted multiple injuries on the person of the victim, which resulted into his homicidal death. The allegations against the appellant are grave and multifaceted, involving the brutal loss of a human life. The appellant has been specifically named in the disclosure statement of co-accused Jatinder Singh @ Taji, which directly links him to the orchestrated assault on the deceased, Harkaranjit Singh. While the appellant has raised a plea of alibi and sought to rely on CCTV footage, such defenses are matters of trial and cannot be adjudicated upon at this preliminary stage of granting pre-arrest bail. The contention regarding delay in lodging the FIR does not hold much significance at this juncture, considering the victim was hospitalized and subsequently succumbed to his injuries. The primary focus of the family during such a period remains the medical care of the victim rather than immediate legal recourse. The prosecution has successfully established a *prima facie* case involving an unlawful assembly with a common object to commit a heinous offence. Undoubtedly, despite the bar created under Section 18-A of the SC/ST Act that the provisions of Section 482 of BNSS are not applicable to the offences committed under this Act, this Court has extraordinary power to entertain a plea of an accused for grant of anticipatory bail even in a petition filed under Section 482 of BNSS. However, that power can be exercised, if it is revealed that no *prima facie* material exists warranting arrest of the accused in the case. Reliance in this regard can be placed upon ***Prathvi Raj Chauhan vs. Union of India and others, AIR 2020 SC 1036***, wherein the Apex Court considered the impact of Section 18-A of

the SC/ST Act and held that as far as the provisions of Section 18-A and anticipatory bail are concerned, in case where no prima facie material exists warranting arrest in a complaint, the Court has inherent power to direct a pre-arrest bail. However, in the instant case, as discussed above, a *prima facie* case for commission of the aforementioned offences has been made out from the allegations in the FIR. As such, in the considered opinion of this Court, the provisions of Section 18 and 18-A of the SC/ST Act certainly apply to the present case. Therefore, anticipatory bail cannot be granted to the appellant. In this regard, reliance can be placed upon the judgment rendered by the High Court of Kerala in ***Abbas R. V. vs. State of Kerala and others, 2022 (5) KLT 618***, wherein similar observations have been made.

7. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail.

8. In view of the discussion as made above, finding no ground to grant the concession of pre-arrest bail to the appellant, the present appeal is

dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

26.02.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

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