

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:030685



145

CRA-S-2776-2025 (O&M)
Date of decision:25.02.2026

Buta Singh

... Appellant

Vs.

State of Punjab & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. D.S. Virk, Advocate for the appellant.

Mr. Roshandeep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant appeal has been filed under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') by the appellant, challenging the order dated 20.08.2025 passed by the Court of learned Additional Sessions Judge, Ludhiana in case arising out of FIR No.260, dated 16.10.2022, registered under Sections 323, 342, 506, 148 IPC and Section 3 of the SC/ST Act, at Police Station Jamalpur, District Ludhiana, whereby an application for grant of anticipatory bail had been dismissed.

2. The aforementioned FIR was registered on the basis of statement recorded by complainant – Bhupinder Singh, alleging that on 12.10.2022, he was present in his house, when accused Amrit accompanied by 3-4 unknown persons reached there and took his son

Husanpreet with him on the pretext of asking something from him. The complainant followed them to the house of Amrit and on reaching there, he found that after closing the main gate of the house, accused Amrit and others were extending beatings to his son. The complainant asked them to open the gate and also the reason for beating his son and then his son informed that on the same day at about 12:30 P.M., on asking a motorcyclist to help him in keeping a gas cylinder on his motorbike, he had done so without knowing that said cylinder had been stolen one. He disclosed that now accused Amit and others were saying that Husanpreet had stolen the cylinder and were extending beatings to him to disclose the name of his accomplice. The complainant further alleged that accused Amrit and his companions then took his son somewhere in their vehicle where he was extended beatings, his hair were cut from his head and some obscene acts were committed upon him.

3. After registration of the FIR, investigation proceedings were initiated. The complainant recorded a supplementary statement to the effect that when his friend Varinder Singh had tried to stop Amrit from assaulting son of the complainant, accused Amrit had proclaimed that it was the work of low caste to steal. The former Sarpanch had also threatened his son. Offence under Section 3 of the SC/ST Act was added,. The appellant was nominated as an accused. Apprehending his arrest, he moved an application for grant of anticipatory bail, which was dismissed by the Court of learned Additional Sessions Judge, Ludhiana vide order dated 20.08.2025, by observing that the application was not maintainable in view of the fact contained under Section 18 of the SC/ST Act.

4. It is argued by learned counsel for the appellant that he has been falsely implicated in this case on the basis of a false story. He was not named in the FIR and has been implicated subsequently. There is delay of 04 days in reporting the matter to the police. The offence under Section 3 of the SC/ST Act was added after 01 month of the alleged incident. There is no specific allegation against the appellant. Provisions of Section 3 of the SC/ST Act are not attracted qua him. He has already joined investigation on 20.09.2025 in compliance of order dated 10.09.2025 as passed by this Court. No purpose would be served by detaining him in custody. It is, therefore, argued that the appeal deserves to be allowed.

5. Learned State counsel on 10.09.2025 had admitted that at the time of second occurrence, the appellant was not present but it is submitted by him that the appellant along with co-accused had extended beatings to the son of the complainant, who had sustained 13 injuries. There is no medico legal report to show the factum of the injuries as sustained by son of the complainant.

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

7. The appellant by forming an unlawful assembly with the co-accused is alleged to have extended beatings to the son of the complainant by wrongfully detaining him. He was not named in the FIR. It has come on record that as per the prosecution case also, he was not present at the time of the second occurrence. He has also been booked for commission of offence punishable under Section 3 of the SC/ST Act. In view of the

allegations as levelled in the FIR, it is a debatable question as to whether ingredients for commission of offence under Section 3 of the SC/ST Act are attracted qua the appellant or not. 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 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. On applying the above discussed position of law to the peculiar facts of this Court, this Court is of the considered opinion that

since the allegations *prima facie* do not disclose the ingredients for commission of offence punishable under either of the provisions of Section 3 of the SC/ST Act, therefore, the bar of Section 18 of the SC/ST Act cannot be said to be operative in this case.

9. The appellant has already joined investigation and learned State counsel has submitted that his custodial interrogation is not required. Even challan is stated to have been filed. Accordingly, the impugned order is set aside, the appeal is accepted, the interim bail granted to the appellant by this Court on 10.09.2025 is hereby made absolute, subject to the conditions as envisaged under Section 482(2) of BNSS.

10. 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.

25.02.2026

harjeet

(MANISHA BATRA)
JUDGE

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