



CRA-S-2944-2025 (O&M)

1

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

201+105

CRA-S-2944-2025 (O&M)

Date of decision : 03.02.2026

DEV RAJ

.....APPELLANT

Versus

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. N.K. Banka, Advocate
for the appellant.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Shubham Bhardwaj, Advocate
for respondent No.2.

SURYA PARTAP SINGH, J. (Oral):**CRM-49258-2025**

This is an application seeking for placing on record the Partnership Deed and Lease Deed as Annexures P-4 and P-5. For the reasons stated in the application, the same is hereby allowed and the Annexures P-4 and P-5 annexed with the application are taken on record.

Main case

1. An application for anticipatory bail moved by the appellant has been dismissed by the learned Special Judge, Bathinda designated under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act on 05.09.2025.



2. Aggrieved of the above-mentioned order, hereinafter being referred to as 'impugned order', the instant appeal has been filed.

3. In nut-shell, the facts emerging from record are that for the commission of offence punishable under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, and Section 61(2) of Bharatiya Nyaya Sanhita, the FIR No.203 dated 31.08.2025 was lodged in Police Station Talwandi Sabo, Bathinda.

4. The above-mentioned FIR came into being at the instance of Satgur Singh, who had stated that on 23.07.2025, he alongwith his co-villager/friend Satpal Sharma was present at a *Dhaba* located near Ravidas Chowk, where three unknown persons assaulted him. According to complainant the above-said assailants abused him in foul language and tried to hit him. The complainant further stated that when Satpal Sharma tried to intervene, they thrashed him (Satpal Sharma) brutally and threatened to kill both of them. It was also stated by the complainant that the above-named assailants also warned them not to visit petrol pump and proclaimed that in case they visited petrol pump, they would be done to death. According to complainant, the assailants had also displayed a revolver, and that they also used derogatory words in abusive manner in the name of caste of the appellant.

5. In addition to above the appellant had also stated that the attack was orchestrated by Manhoar Lal, who was his partner in the petrol pump and that Manohar Lal, his son Lavi and father Devraj, too, had been using abusive language qua him by using derogatory words in the name of his caste.



6. It is the case of the prosecution that in view of above-mentioned statements, formal FIR of this case was lodged and the investigation taken up.

7. Heard.

8. It has been contended on behalf of appellant that present case is one of the classic case, wherein the FIR has been lodged against three unknown persons, who are yet to be identified, but the name of the appellant has been roped in, merely on the basis of figment of imagination of the complainant. According to learned counsel for the appellant, in the present case there is no evidence to show that the assailants, who attacked the complainant, were in any way associated with the appellant, but the appellant is being prosecuted, merely on the ground that the complainant has a suspicion that appellant was instrumental behind the commission of crime.

9. In addition to above, the learned counsel for the appellant has also contended that in the present case, the benefit of anticipatory bail has been denied to the appellant, merely on the ground that provisions of Section-3 of SC and ST Act has been invoked in the present case and Section 18 of the above-mentioned Act debars a Court from according the benefit of anticipatory bail to an accused being prosecuted for such offence.

10. As per learned counsel for the appellant the entire contents of the FIR makes it abundantly clear that firstly the actual words which were used in the name of caste slur have not been detailed by the complainant and secondly, there is nothing on record to show that any derogatory words in the name of caste of complainant was used in public place. The learned counsel for the appellant has contended that the essential ingredients meant for the



commission of offence punishable under Section-3 of SC and ST Act are not attracted in the present case and therefore, the bar of Section 18 of SC and ST Act is not attracted in the present case.

11. In support of his arguments, the learned counsel for the appellant has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the cases of 'Deepak Kumar Tala V/s State of Andhra Pradesh & Ors.' 2025(2) RCR (Criminal) 440 and titled as 'Mohd. Wahid Khan V/s State of Uttar Pradesh & Ors' Criminal Appeal No.4158 of 2025.

12. The learned State counsel being assisted by learned counsel for the complainant have controverted the above-mentioned arguments. The learned State counsel has contended that in the present case once the FIR was lodged an enquiry had been conducted by a responsible officer and after enquiry it was found that the appellant was the main conspirator behind the commission of above-mentioned offence, and that the assailants, who had inflicted injuries on the person of complainant and his friend, were sent by the appellant himself. The learned counsel for the complainant has also contended that in the present case there are very specific allegations with regard to use of derogatory words in the name of caste of complainant, and that the place of occurrence being a *Dhaba*, it is apparent that the above-mentioned incident had taken place in public view, and therefore the provisions of SC and ST Act are attracted in the present case.

13. According to learned counsel for respondent No.2-complainant since there are very specific allegations with regard to commission of offence punishable under Section 3 of SC and ST Act, the bar of Section 18 of above-



said Act is attracted in the present case and therefore, the appellant is not entitled for the benefit of anticipatory bail.

14. The record has been perused carefully.

15. With regard to appeal against the order of dismissal of anticipatory bail in a case pertaining to the SC & ST Act, the Hon'ble Supreme Court of India in the cases of 'Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and Another' AIR 2018 Supreme Court 1498 and 'Union of India v. State of Maharashtra and Others' AIR 2019 Supreme Court 4917 has observed that "there is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie malafide.

16. Recently, in the case of 'Shajan Skaria vs. The State of Kerala and Another' AIR 2024 Supreme Court 4557, the Hon'ble Supreme Court of India, reiterated the principles that "Section 18 of the SC & ST Act does not impose an absolute fetter on the power of the courts to examine whether a prima facie case attracting the provisions of the Act, 1989 is made out or not. As discussed, Section 18 stipulates that in any case which involves the arrest of any person on the accusation of having committed an offence under the SC & ST Act, the benefit of anticipatory bail under section 438 of Cr.P.C, 1973 would not be available to the accused. As per Hon'ble Supreme Court of India, the expression "arrest of any person" appearing in the text of Section 18 of the SC & ST Act bars the remedy of anticipatory bail only in those cases where a valid arrest of the accused person can be made as per Section 41 read with section 60A of Cr.P.C., 1973."



17. It is also relevant to mention here that similar question has also been dealt with by the Hon'ble Supreme Court of India in the case of 'Deepak Kumar Tala vs. State of Andhra Pradesh & Ors.' 2025(2) RCR(Criminal) 440, wherein it has been observed that the essential ingredient for attracting Section 3(1)(r) and 3(1)(s) of the SC & ST Act is that such statement must be made within public view.

18. This Court, too, has also dealt with similar situation in the case of 'Manjit Singh and Another v. State of Punjab and Another' (Criminal Appeal No.S-792 of 2025, decided on 21.04.2025), wherein it has been observed that if a prima facie case is not made out, anticipatory bail can be granted.

19. In the case of 'Aditya Parashar v. State of Punjab and Another' (Criminal Appeal No. S-1634 of 2025, decided on 29.07.2025) and in the case of 'Harjit Kaur v. State of Punjab' (Criminal Appeal No. S-1983 of 2022, decided on 07.10.2022), similar view has been taken. It has been held in the above mentioned cases that bar of Section 18 of the SC & ST Act does not apply where any prima facie case is not made out.

20. If the facts and circumstances of the present case are analyzed in the light of above-mentioned legal principles it transpired that the contents of FIR itself shows that three unknown persons had launched an attack upon the complainant and his friend Satpal Sharma. There is no allegation in the FIR that at the time of above-mentioned attack the appellant was present on the spot. A perusal of the record further shows that there are several factors which are required to be taken into consideration in the present petition at this stage.

Those factors are:-



- i. that the allegations against the above-said assailants with regard to use of caste slur cannot be attributed to the appellant, who was not present on the spot;
- ii. that the contents of FIR no where shows that the use of caste slur by the above-said assailants was in public view;
- iii. that there is nothing on record to show that any kind of conspiracy with regard to above-mentioned incident had been hatched and the appellant was involved in the above-mentioned incident;

21. Although in the FIR there are allegations against the appellant that he used caste slur against the complainant, yet the above-mentioned allegations are quite vague and inconclusive because, firstly the time and place of the above-mentioned incident has not been reported; secondly the actual words used by the appellant have not been mentioned and thirdly it has not been alleged that the above-mentioned words were used in public view.

22. As a sequel to above-mentioned observations, it is hereby held that an error of judgment has been committed by the learned Special Judge under SC/ST Act while declining the benefit of anticipatory bail to the appellant. Hence, it is hereby held that the impugned order needs intervention and indulgence of appellate jurisdiction of this Court. Thus, by accepting the present appeal, the impugned order is hereby set aside.

23. Accordingly, it is hereby directed that in the event of his arrest, the appellant shall be released on anticipatory bail on furnishing bonds to the



satisfaction of arresting officer. However, the above-said benefit shall be subject to following conditions:-

- (i) that the appellant shall make himself available for interrogation by a police officer as and when required;
- (ii) 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 disclosing such facts to the Court or to any police officer;
- (iii) that the appellant shall not leave India without the prior permission of the Court;

24. It is, however, made clear that any observation made here-in above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

03.02.2026
vipin

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