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

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**CRA-S-3109-2025 (O&M)
Date of Decision: 13.01.2026**

Aakash Kumar

....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Akash Mehta, Advocate
for the appellant.

Mr. Mohit Chaudhary, AAG, Haryana.

Mr. Surjeet Singh Chahal, Advocate
for the complainant.

RUPINDERJIT CHAHAL, J (ORAL)

1. Present appeal is directed against the order dated 19.09.2025 passed by the Additional Sessions Judge, Fatehabad dismissing the application of the appellant for grant of anticipatory bail in case FIR No.162 dated 10.07.2025 registered under Sections 115(2), 117(2), 190, 191(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short as 'SC/ST Act'), at Police Station City Ratia, District Fatehabad.

2. Brief facts as per the prosecution case are that the appellant along with other co-accused had assaulted and caused injuries to the

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complainant and also abused him in the name of his caste, due to some old enmity. Hence, the present FIR.

3. Learned counsel for the appellant contends that the appellant has been falsely implicated in the present case. He argued that the appellant was neither named in the FIR, nor has any concern with the said offence. It has also been contended that the appellant was nominated as an accused on the basis of disclosure statement made by co-accused Resham Singh and Jiwan Singh. Apart from the disclosure statement, there is no other evidence to connect the appellant with the offence in question and it is a trite law that disclosure statement of co-accused during his custodial interrogation is not admissible. He further argued that no overt act has been attributed to the present appellant. He argued that the no offence under SC/ST Act is made out against the appellant because the essential ingredients i.e. public view is missing. He further argued that the name of the appellant was cropped up merely because he was standing there and no specific role has been attributed to him. No recovery is to be effected from him. Further, co-accused Resham Singh and Jeewan Singh have already been granted the concession of regular bail by the learned trial Court, vide order dated 12.07.2025 and co-accused Jaspal Singh and Kamdev alias Dev Saini have also been granted the benefit of regular bail by the Court of learned Additional Sessions Judge, Fatehabad. He further argued that the custodial interrogation of the appellant is not required for any recovery and he is ready and willing to join the investigation as and when called upon to do so by the investigating agency.

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4. After registration of the FIR, investigation has been initiated and is under way. Apprehending his arrest, the appellant had moved an application for grant of anticipatory bail which has been dismissed by the Court of learned Additional Sessions Judge, Fatehabad, vide order dated 19.09.2025.

5. On the other hand, learned State counsel has already filed the status report in the matter and while referring to the same, he has opposed the prayer for grant of anticipatory bail on the ground that the allegations levelled against the appellant are serious in nature. He argued that the appellant actively participated in the offence and was specifically named in the disclosure statement of co-accused Resham Singh and Jiwan Singh. He further argued that the appellant was part of the unlawful assembly and he is the person who conspired and insulted the complainant in the name of his caste and used the words “chura dedh”. However, he has not controverted the fact that the appellant is first time offender as he is not involved in any other case. He further submits that the custodial interrogation of the appellant is required for fair and proper investigation in the matter as well as to effect recovery of weapon of offence and motor-cycle used in the crime. Hence, he prays for dismissal of the petition.

6. Learned counsel for the complainant, while opposing the prayer for grant of anticipatory bail to the appellant, has contended that the appellant has played an active role in the crime and, thus, does not deserve the concession of bail.

7. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding



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individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It would be apposite to refer herein judgment of Hon'ble Supreme Court in '**State Vs. Anil Sharma**', (1997) 7 SCC 187, wherein it has been held as under:

"6. We find, force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

8. More recently, a three Judge Bench of Hon'ble Supreme Court in the case of '**Kiran v. Rajkumar Jivraj Jain**'; **Criminal Appeal No. 3867 of 2025 (Special Leave Petition (CRL.) No. 8169 of 2025)**, decided on **01.09.2025**, has categorically held that anticipatory bail under SC/ST Act is



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an exception and is permissible only if *prima facie* offence is not made out.

Relevant part of the same is reproduced hereunder:-

“6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes, Act, 1989 with express language excludes the applicability of Section 438, Cr.PC, it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1 The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of *prima facie* merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2 Non-making of *prima facie* case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a *prima facie* offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial.”

9. In the present case, the allegations against the appellant are serious in nature as he was specifically named in the disclosure statement of



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the co-accused Resham Singh and Jiwan Singh. As per the status report, the appellant was part of the unlawful assembly who conspired and insulted the complainant in the name of his caste and thus, a *prima facie* case is made out against the appellant and ingredients of offence under Section 3 of SC/ST Act are duly established. The specific caste words “chura dhed” were used by the appellant with clear intention to insult the complainant. The weapon of offence and the motor-cycle used in the crime are yet to be recovered. This Court is sanguine of the fact that while considering the petition for anticipatory bail, it is required to consider the overall nature of offence and accusation against the accused, the manner of occurrence, the gravity of offence and the potential impact of granting pre-arrest protection, at this stage. Granting anticipatory bail with such allegations, at this preliminary stage, would not be justified as it may affect the course of fair investigation and undermine the seriousness of the alleged act. Considering the gravity of the allegations, the custodial interrogation of the appellant is necessary for effective investigation in the matter and if it is denied, it will leave many loose ends, which is not desired. Thus, the present appeal being devoid of merits is accordingly dismissed.

10. It is made clear that nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

(RUPINDERJIT CHAHAL)
JUDGE

13.01.2026

D.Bansal

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