

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.....of 2026
(@Special Leave Petition (Crl.) No.13439 of 2025)

Kuldeep Singh and Anr.

...Appellants

Versus

State of Punjab and Anr.

...Respondents

With

Criminal Appeal No.....of 2026
(@Special Leave Petition (Crl.) No.13440 of 2025)

ORDER

Leave granted.

2. This Court is slow to interfere in orders granting bail, even anticipatory bail, keeping in mind the various decisions of this Court emphasizing the valuable right to liberty, more so in the case of under trial prisoners in the background of overcrowded jails and prolonged trials, a malady the courts in this country are grappling with. But, in a fitting case where the offences are gross and the allegations make out a good case, courts should be cautious in giving anticipatory bail; which caution, in the present

case was thrown to the winds, is the allegation of Mr. Zian Haider, learned counsel appearing for the appellants, who along with a number of other members of the same community were allegedly assaulted, fired at and abused with casteist slurs. The appellants are before this Court seeking cancellation of the anticipatory bail granted to the second respondent in each of these appeals.

3. It is argued that the High Court had passed the order only on the ground that the complainant has not registered the FIR, which the complainant was allegedly prevented from doing. It is the specific case of the complainant that the accused had indulged in criminal acts while the police were present at the location. The issue arose when a drainage was allegedly directed into the residence of the marginalized people, also members of the scheduled caste, forcing them to rise in protest. The police tried to settle the matter, when, without any provocation, the members of the upper caste led by the party respondents unleashed violence on the members of the scheduled caste. The learned counsel for the appellants also took us through the short affidavit filed by the Deputy Superintendent of Police before the High Court and also the report of investigation

from the records. There is clear allegation of shots having been fired and casteist slurs levelled which has been ignored by the High Court. The trial court by Annexure P4 order relied on *Shajan Skaria v. State of Kerala*¹, while rejecting the prayer for anticipatory bail which has been reversed by the High Court relying on the very same decision.

4. Mr. Rajat Bhardwaj, learned AAG appearing for the respondent State does not join issue on the bail, but asserts that the police acted impartially. For the record it is stated that there was a civil dispute with respect to a drainage which was attempted to be settled by the police. Both the parties were called to the police station when the respondents appeared and the group of people led by the appellants not only refused to appear but blocked the public road creating a law-and-order situation. Even then, the Station House Officer had attempted to bring about a settlement of the matter, with which the group led by the appellants did not co-operate. There was a march led to the house of one of the respondents after which the above

¹ 2024 SCC OnLine SC 2249

incident of firing occurred in which none were injured. In fact, there were pelting of stones injuring the police personnel also.

5. Mr. Santpal Singh Sindhu, learned Senior Counsel appearing for the second respondents in these appeals seeks to support the order of the High Court. It is pointed out that a civil dispute was converted into a criminal dispute.

6. We see from the order that the High Court primarily relied on the fact that no complaint on behalf of the alleged victim, the 1st appellant, of a caste related abuse by the accused was made and the FIR was registered on the statement of a police official. Reliance was also placed on ***Dr.Subhash Kashinath Mahajan v. State of Maharashtra and Another***² and ***Shajan Skaria***¹. The High Court was of the opinion that the allegation levelled in the FIR even if accepted do not disclose the ingredients for commission of an offence punishable under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989³.

² (2018) 6 SCC 454

³ The Act of 1989

7. We have a peculiar case where the appellants allege that the complaint made by them was never heeded to or taken on record for registration of an FIR. The FIR, as noticed by the High Court is by a police officer in the rank of Assistant Sub-Inspector. The First Information Statement (FIS) indicates that a video uploaded in the social media showing a person firing his gun in village Chandbhan on 05.02.2025 resulted in the said FIR being lodged. The incident that occurred on 05.02.2025 is admitted by the police and also the party respondents. While the police submits that there is a history of a civil dispute leading to the incident, which was only due to the appellant's group not responding to the attempts made by the police to settle the matter, the respondents submit that the appellants took out a procession to the house of one of the accused and for sheer fear of life they retaliated. We see that the High Court had also relied on an affidavit with a total denial; submitted by the accused, of two persons who had made similar allegations.

8. In the present case, the statement of various persons examined by the police, including that of the appellants were available, produced herein as Annexure P10, which

specifically indicates casteist slurs alleged, alongside the attempt to create a riot with the marginalized section of the village being pitted against the upper caste. That the FIR does not contain an allegation of casteist slurs is very clear but in the facts of the present case, the High Court ought to have been more cautious in examining the records before granting anticipatory bail.

9. In this context, we cannot but notice the short affidavit filed before the High Court on behalf of the Deputy Superintendent of Police, Subdivision Jaito, District Faridkot produced as Annexure P13. The affidavit narrates the incident with respect to the sewage being discharged into the residences and specifically refers to the casteist slurs as coming out from the party respondents. It also speaks of injuries as a result of smooth bore firearm discharged from a distant range. The affidavit further speaks of a complaint received of a threat having been levelled against one of the witnesses injured in the incident as produced at Annexure R1.

10. ***Dr. Subhash Kashinath Mahajan²*** considered the issue of exclusion of anticipatory bail under the Act of 1989 and held that an absolute bar cannot be found, especially in

cases where there is no *prima facie* case made out or where on a judicial scrutiny, the complaint is found to be *prima facie mala fide*. Therein the allegation was against the appellant who had granted sanction for prosecution under the Act of 1989 which sanction was in fact to be obtained from the State Government. The complainant alleged the offence under the Act of 1989 on the ground that the appellant granted the sanction without referring the matter to the State

11. In *Shajan Skaria*¹, the appellant was the Editor of an online news channel who was accused of uploading a video raising allegations against a member of the Legislative Assembly of the State, who incidentally belonged to a scheduled caste. This Court found that all insults and intimidations against an alleged member of the SC or ST community would not amount to an offence under the Act of 1989 unless such insults or intimidations are levelled on the premise of his or her belonging to such caste or tribe. The transcript of the uploaded video was held to be not even *prima facie* indicating the allegations made in the video was related to or was on account of the fact that the complainant belonged to a scheduled caste.

12. We are of the opinion that the facts of the cases referred above cannot be equated to the present case. As we noticed, there is a peculiar circumstance in the present case wherein the FIR was registered on the FIS by a policeman who had made the statement on the basis of a video uploaded on YouTube; presumably on apprehension of public backlash for no action being taken by the police, despite their presence, clearly indicated in the footage. We also notice that the parties had referred to the video of the incident which was also perused by the High Court. We also had the opportunity to peruse the video footage, and we are unable to concur with the opinion of the High Court that *prima facie* there can be no culpability found. We would not say anything more on the video footage, especially since it would have to be proven appropriately before the trial court.

13. Further, there was an affidavit filed by the Deputy Superintendent of Police, pointing out the allegations and the offences under the Act of 1989 which has come out in the investigation. The report of investigation produced by the petitioner as Annexure A along with the rejoinder dated 01.12.2025 indicates not only offences under the Bharatiya

Nyaya Sanhita, 2023 and the Arms Act but also those under the Act of 1989. We are inclined to agree with the trial court that the dictum in *Shajan Skaria*¹ that, if the ingredients of the offence under the Act of 1989 are not *prima facie* disclosed then Section 18 of that Act declining consideration of anticipatory bail will not apply, cannot be imported into the facts of this case. Neither can it be found that there is absence of a *prima facie* case; which is otherwise as clearly brought out on investigation, nor can be found any political or private vendetta for raising the allegations. Even the police admit that there was tension prevailing in the locality which led to criminal acts being perpetrated. The mere attempt at reconciliation cannot prevent the police from taking cognizance of criminal acts. It is also pertinent that the FIR registered against the group led by the appellants, on the very same incident has been closed, the persons arrayed as accused having been found innocent in the investigation carried out. Annexure A report specifically refers to the party respondents in these criminal appeals.

14. On the facts and circumstances as coming out in the present case a *prima facie* case has been made out against the second respondents in these appeals under the Act of

1989, We also make it clear that it is not the video footage that persuaded us to come to this conclusion, but it has fortified our findings on the other aspects, which we hasten to add are *prima facie* in nature and would not in any manner govern the trial.

15. We, hence, allow the appeals and cancel the anticipatory bail granted to the party respondents who shall surrender within a period of 15 days.

16. The appeals are allowed.

17. Pending application (s), if any, shall stand disposed of.

..... J.
(SANJAY KUMAR)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI
MARCH 09, 2026.