2025:DHC:9396

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Decided on: 28th October, 2025**

\+ **BAIL APPLN. 3485/2025**

VIRENDER SINGH BIDHURI .....Petitioner

Through: Mr. K.K. Manan, Sr. Adv. with Ms. Uditi Bali, Mr. Karmanya Singh Choudhary, Mr. Lavish Chandra, Ms. Yakshi Kataria, Ms. Savita Sethi, Mr. Mayank Arora, Ms. Shivani Varun, Mr. Mehul Anand, Advs.

versus

STATE (NCT OF DELHI) AND ANR .....Respondent

Through: Mr. Tarang Srivastav, APP for the State with ACP Harish Chand, Insp. Sushil Kumar, PS Badarpur. Mr. Sanjeev Kr. Baliyan, DHLSC, Adv. with Ms. Shivanshi Panwar, Adv. for the victim.

CORAM
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

1. The present application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [Section 438 Cr.P.C.] by the petitioner seeking anticipatory bail in case FIR No. 386/2025

registered at P.S. Badarpur under Sections 115/126(2)/74/78/ 324(2)/351(2) BNS, 2023 and Section 3(1)(r)(s)(w-ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 **["SC/ST Act"**].

FACTUAL BACKGROUND

2. As per allegation in the FIR, complainant had been working as Assistant Manager, Batra Hospital, Faridabad for the past two months. There, she came in contact with the petitioner. On 30.07.2025, while returning from Batra Hospital, she was stopped by the petitioner. On reaching Badarpur Flyover, he overtook and stopped her car. The complainant became frightened as petitioner allegedly broke the car window, forcefully pulled her out of the vehicle, physically assaulted her, molested her and verbally abused her. She further alleged that petitioner used caste related derogatory remarks *"Chamaran tune aaj meri shikayat karke acha nahi kiya, aaj tujhe iska bhugtan karna padega"* and threatened her not to report the incident to the police. During assault, she fell down on the road and petitioner allegedly dragged her by her collar, molested her by pressing her breast and continued to abuse her before fleeing from the scene. After the incident, complainant called her husband, who after reaching the spot, made a PCR call.

3. Based upon the above statement of the complainant and medical report of the injured, FIR No. 386/2025, under Sections 115/126(2)/ 74/78/324(2)/351(2) of BNS was registered.

4. During investigation, Investigating Officer got recorded the complainant's statement under Section 183 BNSS, wherein, she reiterated the allegations and attributed specific caste-based slurs to the petitioner. On the basis of the allegations made, Section 3(1)(r)(s)(w-ii) of SC/ST Act was also invoked. Complainant, in her statement, further mentioned that petitioner had come to her house on the night prior to the incident in an intoxicated state and threatened to kill her family.

5. Learned Additional Sessions Judge, South-East District, Saket, vide order dated 06.09.2025, dismissed the petitioner's anticipatory bail application.

SUBMISSIONS ON BEHALF OF THE PETITIONER

6. Mr. K.K. Manan, learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. She has been in consensual relationship with the complainant, as evident from WhatsApp chats, call detail records (CDRs), and photographs exchanged between them, placed on record. The chats and digital exchanges, according to learned Senior Counsel, unmistakably establish intimacy and mutual affection between the two, thereby demolishing the prosecution's claim of harassment or

stalking. The petitioner was honey-trapped by the Complainant under a well thought-out conspiracy.

7. It is the case of the petitioner that the complainant was introduced to the petitioner via a person namely Sunil Bhati and it was the petitioner who got the complainant her job at Batra Hospital after he sent her CV to Ramesh Batra. Since then, the petitioner and complainant have been in touch with each other, exchanging messages and calls. The petitioner bought gifts for the complainant, took her for lunch and the complainant even visited the farmhouse of the petitioner. Ld. Senior Counsel further submitted that the petitioner had, out of goodwill, advanced monetary help to the complainant from time to time when she was in financial distress. However, when the petitioner sought repayment, the complainant, with *malafide* intent, lodged the present false complaint to pressurize and humiliate him.

8. Arguing on the point of the offence being committed within "public view", the Ld. Senior counsel stated that to amount to an offence under section 3 of the SC/ST Act, it is essential that the petitioner was aware of the complainant's caste and intentionally used casteist slurs for humiliation in the presence of independent public witness. In support of his arguments on "public view", he placed reliance on a catena of judgments including the judgment passed by Court in ***Virender Verma Vs. Neeraj Bajpai & Ors.****[in CRL.L.P. 113/2016, decided on 12th September 2018]*,whereby it was held that "public view" for the purpose of section 3 of the SC/ST Act would

mean that the incident occurred in the presence of public persons and such public persons should be independent and impartial, not interested in any of the parties or have any sort of relationship/association with the victim. Reliance was also placed on ***Daya Bhatnagar & Ors. Vs. State, (2004) SCC Online Del 33*** which held that "public view" means that public persons present should be independent, impartial and not having any commercial/business relation with the complainant.

9. The Ld. Senior Counsel referred ***Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710***, to contend that disputes of personal nature do not attract the provisions of the SC/ST Act unless there is clear intent to humiliate the victim belonging to a Scheduled Caste. Reliance was also placed upon ***Prithvi Raj Chauhan v. Union of India (2020) 4 SCC 727*** and ***Shajan Skaria v. State of Kerala (Criminal Appeal No. 2622 of 2024)*** to argue that anticipatory bail can be granted when no prima facie offence under the SC/ST Act is disclosed. Learned Senior Counsel stressed that the bar under Sections 18 and 18-A of the SC/ST Act is not absolute, and courts retain the power to examine whether the allegations are genuine or concocted.

10. It is contended that the essential ingredients of the offences under Section 3(1)(r)(s)(w-ii) of the SC/ST Act are not made out inasmuch as there is no material to show that the petitioner was aware of the complainant's caste and that the alleged incident did not occur "in public view" as required under law. There was no independent

public witness who could corroborate that alleged casteist abuses were uttered by the petitioner to the complainant.

11. It is urged that the present FIR is a classic example of misuse of penal provisions and the SC/ST Act, which is enacted for the protection of the marginalized community, but is now being weaponized for extraneous purposes.

12. It is further argued the petitioner has been maliciously implicated due to ulterior motives of the complainant. No recovery is to be effected from the petitioner and his custodial interrogation is not required. The petitioner has willingly placed CDR and WhatsApp chats on record- thereby showing his cooperation. It is stated that the petitioner has deep roots in society, is a law-abiding citizen, is willing to fully cooperate with the investigation and also undertakes to abide by all conditions that may be imposed by this Court. Hence, it is prayed that anticipatory bail be granted to the petitioner.

SUBMISSIONS ON BEHALF OF THE STATE AND THE COMPLAINANT

13. *Per contra*, learned APP for the State, Mr. Tarang Srivastav, opposes the grant of anticipatory bail and submits that allegations against the petitioner are grave and serious in nature. It is contended that the complainant's statement under Section 183 BNSS corroborates the allegations in the FIR and clearly discloses offences under the BNS and the SC/ST Act.

14. It is contended that the incident had occurred on the road and when the petitioner dragged out the complainant from the car, a crowd had gathered, thereby indicating that the place was within "public view". It is also submitted that the windshield of complainant's car was broken and as per the MLC, complainant suffered injuries on her person.

15. Learned APP further submitted that the protection of anticipatory bail should not be extended in cases involving caste-based abuse, as the same has a deleterious effect on social order and public confidence. He contends that the allegations in the FIR, if taken at face value, reveal physical assault, intimidation, and humiliation of the complainant- belonging to a Scheduled Caste community, thereby attracting the rigours of Section 18 of the SC/ST Act which bars pre-arrest bail. Reliance was placed on ***Kiran Vs. Rajkumar Jivraj Jain & Anr., 2025 INSC 1067*** to contend that if a prima facie case is made out, then bail cannot be granted under section 18 of the SC/ST Act. It is further submitted that all essentials of section 3 of SC/ST Act stand satisfied. It is prayed that application seeking anticipatory bail be dismissed.

16. It is also argued that the investigation is at a nascent stage and custodial interrogation of the petitioner is necessary for collection and verification of electronic evidence such as mobile data, CCTV footage, and digital communication.

17. The complainant, who appeared before the Court through video conferencing, has opposed the bail plea and submitted that she has known the petitioner since past 5-6 months and that they used to visit each others house. She contended that the petitioner was aware of her caste and that on the day of the incident, he broke her car's windshield, dragged her out of the car, hit her and threatening her and also hurled caste slur. She further submitted that the petitioner used to follow her everywhere and one night he reached the complainant's house and extended threat to her and her family. It is urged that she is under genuine apprehension of threat and harassment from the petitioner if anticipatory bail is granted to him.

ANALYSIS AND REASONING

18. The SC/ST Act is a special provision which provides stringent safeguards to protect the members of Scheduled Castes and Scheduled Tribes from atrocities to give effect to the constitutional ideals. It aims to protect these communities from discrimination, abuse and violence, ensuring social equality and justice. At the same time, the Act cannot be converted into a charter for exploitation of citizens.

19. To constitute an offence under section 3 of the SC/ST Act, it is essential that there should be intentional insulting or intimidation with intent to humiliate a member of a Scheduled Caste or Scheduled Tribe, and abuse or use of caste epithets in a manner that targets the person's

caste. Moreover, such acts must be done "in any place within public view". The relevant extract of Section 3 of SC/ST Act is as under:-

> *"3. **Punishments for offences atrocities**.— (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,*
> *(b) to (o) …….*
> *(P)……..*
> *(q)……..*
> *(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;*
> *(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;*
> *(t)……..*
> *(u)……*
> *(v)……..*
> *(w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent; (ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe."*

20. Section 18 of the SC/ST Act has been enacted to take care of an inherent deterrence and to instil a sense of protection amongst the Scheduled Castes and Schedules Tribes. The provision explicitly excludes the application of Section 438 of the Cr. PC in relation to any case involving the arrest of any person on an accusation of having committed an offence under the Act. Sub-section (2) of Section 18-A specifically excludes the application of the provisions of Section 438 of the Cr. PC, notwithstanding any judgment, order or direction of a Court. The same reads as under:-

> *"**18. Section 438 of the Code not to apply to persons committing an offence under the Act.**—Nothing in Section 438 of the Code*

shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

***18-A. No enquiry or approval required.**—(1) For the purposes of this Act —*
(a) preliminary enquiry shall not be required for registration of a first information report against any person; or
(b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.
(2) The provisions of Section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any court."

21. A bare reading of Section 18 and 18-A of the SC/ST Act, makes it abundantly clear that the legislature has taken away the benefit of anticipatory bail in respect of the offences alleged under the SC/ST Act. The constitutional validity of Section 18 of the Act has been upheld by the Apex Court in the case of ***State of M.P. & Anr. Vs. Ram Krishna Balothia & Anr. (1995) 3 SCC 221.***

22. In ***Vilas Pandurang Pawar Vs. State of Maharashtra (2012) 8 SCC 795***, Hon'ble Supreme Court explained the bar under Section 18 of the SC/ST Act against grant of anticipatory bail, observing as under:-

"Section 18 of the SC/ST Act creates a bar for invoking Section 438 of the Code. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has been prima facie made out. In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail."

23. It was further observed in **Vilas Pandurang Pawar** (*supra*):-

> *"Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. The court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the Special Act to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence."*

24. The Supreme Court further explained in ***Prithvi Raj Chauhan Vs. Union of India, (2020) 4 SCC 727*** that the bar contained in Section 18 does not operate as an automatic, mechanical fetter to deny relief where the complaint itself and the materials placed therein do not, on a prima facie basis, disclose the essential ingredients of an offence under the Act. If the complaint on a prima facie reading of the material, does not make out a case under the SC/ST Act, the statutory bar cannot be invoked to deny the court the jurisdiction to consider anticipatory bail. The bar under Section 18 can only be sensibly applied if, at the threshold, a prima facie case under the Act is made out.

25. Thus, the settled law is that if a prima facie case under the Act exists, the statutory bar operates strongly against the grant of anticipatory bail but if the allegations do not prima facie disclose the commission of any offence under the SC/ST Act, the courts retain the jurisdiction to grant anticipatory bail.

26. An important ingredient of offence under Section 3 of SC/ST Act is that the act must be done in any place within the "public view". The "public view" limb is not a superfluity, rather an essential element which the prosecution must *prima facie* establish to attract the above said provision. The jurisprudence on "public view" requirement has crystallized in recent years. The term "any place within public view" initially came up for consideration befo re the Supreme Court in the case of ***Swaran Singh and others Vs. State through Standing Counsel and another, (2008) 8 SCC 435,*** wherein, the Court distinguished between *"public place"* and *"place within public view"*. The Supreme Court emphasized that mere utterance of offensive words or insults to a member of SC/ST is not sufficient to invoke Sections 3(1)(r) and 3(1)(s) unless the insult or intimidation is shown to have been committed because the victim belongs to a Scheduled Caste/Tribe and unless the incident occurred in a place where members of the public (other than closely related persons or persons with a vested interest) could witness or hear it i.e. in "public view". The relevant portion of the judgment reads as under:-

> *"28. Also, **even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression 'place within public view' with the expression 'public place'. A place can be a private place but yet within the public view**. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.*

34. However, a perusal of the F.I.R. shows that Swaran Singh ***did not use these offensive words in the public view. There is nothing in the F.I.R. to show that any member of the public was present when Swaran Singh uttered these words, or that the place where he uttered them was a place which ordinarily could be seen by the public. Hence in our opinion no prima facie offence is made out*** *against appellant no.1."*

27. In the latest judgment of ***Kiran vs. Rajkumar Jivraj Jain & Anr., 2025 INSC 1067***, the Hon'ble Supreme Court discussed the previous judgments on the subject namely ***Shajan Skaria Vs. State of Kerala & another, 2024 SCC OnLine SC 224; State of M.P. & Anr. vs. Ram Krishna Balothia & Anr. (1995) 3 SCC 221, Kartar Singh Vs. State of Punjab(1994)3 SCC 569; Vilas Pandurang Pawar (supra); Prithvi Raj Chauhan (supra); Hitesh Verma vs. State of Uttarakhand & Another, (2020) 10 SCC 710; Ramesh Chandra Vaish Vs. State of U.P. 2023 SCC OnLine SC 668 & Swaran Singh (supra).*** The relevant paras of the said judgment read as under:-

*"**7**. Reverting to the facts of the present case, the respondent-accused was not a member of Scheduled Caste or Scheduled Tribe community. The appellant belonged to scheduled caste community known as "Mang" or "Matang". The allegations made in the FIR lodged by the complainant was that he was addressed by the accused with abusive casteist utterance "Mangatyano,you are became very arrogant, you are staying in the village and voting against". The appellant was addressed as above by the accused outside the house of the appellant where others were present.*

***7.1** The accused persons beat the complainant with iron rod and threatened to burn the house. The mother and aunt of the appellant-complainant were also meted out similar treatment with intimidation and were addressed with same casteist slur. The use of the word "Mangatyano" was with a clear intention to humiliate the complainant because he belonged to the said Scheduled Caste community. In the said abusive utterances and conduct by the accused, the caste nexus was established. The complainant was*

humiliated with casteist and abusive approach for the reason that he did not vote in favour of particular candidate one Bahubali- accused No.8 in the Assembly Election as desired by the respondent accused.

***7.2** The incident as above took place outside the house of the complainant, it was a place within public view. The term "any place within public view" was considered by this Court in **Swam Singh (supra)** and **Hitesh Verma (supra)** was also subsequently referred to in the decision of this Court in **Kamppudayar vs. State Rep. by the Deputy Superintendent of Police, Lalguid Trichy & Ors.** wherein the Court drew distinction between "public place" and "any place within public view". It was held that if the offence is committed outside the building, for example in the lawn outside the house, and the lawn can be seen by someone from the road or lawn outside the boundary wall, then the lawn would certainly be a place within the public view.*

***8.** In the present case, as noted above, the incident took place outside the house of the appellant which could be viewed by anybody. It was indeed a place within public view. There is no gainsaying that in the facts of the case all ingredients necessary to prima facie constitute offences under Section 3 of the Scheduled Caste and Scheduled Tribe Act, 1989 as alleged in the FIR stood satisfied. Furthermore, the occurrence of incident was fortified by recovery of clothes and weapons.*

***9.** In the above view, there is no escape from the conclusion that offence under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is made out from the bare reading of the FIR. The High Court in proceeding to evaluate the testimony of witnesses and to opine on that basis that there were certain discrepancies, no offence was made out, committed a manifest error. The anticipatory bail granted by overlooking of and disregarding the bar of Section 18 of the Act was a clear illegality and jurisdictional error committed by the High Court. The order of the High Court could not be sustained in the eye of law.*

***10.** In the result, the judgement and order dated 29.04.2025 in Criminal Appeal No.201 of 2025 passed by the High Court of Judicature at Bombay, Bench at Aurangabad is hereby set aside. The Appeal is allowed. The anticipatory bail granted to respondent No. 1 stands cancelled."*

28. Coming back the facts of the present case, there are categorical allegations in the FIR that petitioner made derogatory caste based

slurs upon the complainant. Admittedly, petitioner does not belong to the SC/ST community. As per status report, notice under Section 94 BNSS was served to the complainant to produce her caste certificate and other documents. Complainant produced a pen-drive containing video of the place of incident, recorded by her in her mobile phone. Further, she produced the caste certificates of her husband and her father along with her marriage card and the copy of the marriage certificate. As per the caste certificate, the husband of the complainant belongs to 'Jatav' caste and the father of the complainant belongs to 'Khatik' caste.

29. The alleged incident took place on the road on a flyover which could be viewed by anybody. In her statement under Section 183 BNS, complainant stated that there were many public persons present, even though, no public witness could be traced out so far, the place of incident was indeed a "place within public view". Therefore, the ingredients necessary to *prima facie* constitute an offence under Section 3 of the SC/ST Act, 1989, based on the allegations in the FIR and the statement under Section 183 BNS, stand satisfied.

30. Hence, prima facie, an offence under SC/ST Act is made out from the bare reading of the FIR and the statement under Section 183 BNS, and therefore, the bar of Section 18 of the SC/ST Act shall apply in the present case against the grant of anticipatory bail.

31. In view of the bar imposed by Section 18 of the SC/ST Act, petitioner is not entitled to the grant of anticipatory bail.

32. The application is therefore dismissed.

33. It is clarified that nothing stated in this order shall tantamount to any expression on the merits of the case.

RAVINDER DUDEJA, J.

OCTOBER 28, 2025
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