



2025:CGHC:26309

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1032 of 2025**

1 - Dharku Ram S/o Bigamba Ram Aged About 55 Years R/o Village- Kaliya,
Police Station - Narayanpur, District - Jashpur (C.G.)

2 - Mahavir Chouhan S/o Dharku Ram Aged About 35 Years R/o Village-
Kaliya, Police Station - Narayanpur, District - Jashpur (C.G.)

... Appellants**versus**

State Of Chhattisgarh Through - Station House Officer, Police Station -
Narayanpur, District - Jashpur (C.G.)

... Respondent/State

For Appellants : Mr. Manoj Kumar Yadav, Advocate
For Respondent : Ms. Sunita Sahu, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order On Board****20.06.2025**

1. The victim appeared through virtual mode from concerned DLSA and raised objection in granting anticipatory bail to the applicants.
2. This appeal u/s 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "the SC/ST Act") has been preferred by the appellants against the order dated

06.05.2025 passed by the Special Judge, (Atrocities) Jashpur, District Jashpur in Anticipatory Bail Application No.81/2025 whereby the application filed by the appellants under Section 482 of BNS apprehending their arrest in connection with Crime No.15/2025 registered at Police Station Narayanpur, District Jashpur (CG) for the offence punishable under Sections 115(2), 296, 3(5), 351(2) & 117(2) of BNS and Section 3(2)(va), 3 (1)(r)(s) & 3 (1)(d) of SC & ST (Prevention of Atrocities) Act has been rejected.

3. The case of prosecution, in short, is that on the date of the incident, at around 2:30 PM, the complainant's brother, had gone to the shop of the appellants/accused Mahaveer Ram. The complainant and one another were standing approximately 100 meters away from the accused persons' shop. Upon hearing a commotion, they started moving towards the shop of the appellants/accused. At that time, they saw that Dharku Ram was abusing the complainant's brother in filthy language and was assaulting him with fists on his face. Furthermore, Dharku Ram's son, the accused Mahaveer Chauhan, struck his brother on the head with a stick, causing him to fall to the ground. Blood was oozing from his brother's nose, ears, and head, and he was unconscious. The injured was taken by the accused persons to Kunkuri for medical treatment, where the doctor referred him to Ambikapur for better treatment, and he was accordingly taken to Ambikapur for further medical care. On report being lodged by

the complainant, offence under the aforesaid Sections has been registered against the appellants.

4. The argument of learned counsel for the appellants is that the offences registered under BNS are bailable and of general nature. The offence under Atrocities Act is not made out. The FIR does not disclose that the crime was committed on the basis of caste. Since, the case under Atrocities Act is prima facie not made out as per the FIR, anticipatory bail should be granted. He further submits that a settlement has been reached between the parties. The appellants are the reputed persons of their village and if they are arrested, it would affect the marriage of the daughter of appellant Dharku Ram. In support of his argument, learned counsel for the appellants placed reliance on ***Prathvi Raj Chouhan Vs. Union of India and Others.***¹
5. Learned State counsel, on the other hand, opposes the anticipatory bail, submits that the injured/victim and the appellants known to each others prior to the incident as they living in a same village. Further, in the statement of the complainant recorded under Section 161 of Cr.P.C., he has stated that the appellants abused him by the name of his caste. A case of atrocity is made out against the appellants and they are not eligible for grant of anticipatory bail considering the bar under section 18 of the Atrocities Act. Hence, the appeal should be dismissed.
6. Heard learned counsel for the parties and perused the case diary.

1 (2020) 4 SCC 727

7. The application under Section 482 of the BNSS filed by the appellants for grant of anticipatory bail has been rejected by the trial Court taking note of the bar provided under Section 18 of the Act of SC/ST Act. It is, however, to be noted at this stage that the bar so provided therein was considered by the Hon'ble Supreme Court in the matter of **Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and another** reported in **(2018) 6 SCC 454**, and arrived at a conclusion that if the person is able to show prima facie case that he has not committed any atrocity and the allegations have been made mala fide, then the bar provided therein would not be attracted. Paragraphs 50, 51, 53 and 55 are relevant for the purpose, which read as under :-

“50. We have no quarrel with the proposition laid down in the said judgment that persons committing offences under the Atrocities Act ought not to be granted anticipatory bail in the same manner in which the anticipatory bail is granted in other cases punishable with similar sentence. Still, the question remains whether in cases where there is no prima facie case under the Act, bar under Section 18 operates can be considered. We are unable to read the said judgment as laying down that exclusion is applicable to such situations. If a person is able to show that, prima facie, he has not committed any atrocity against a member of SC and ST and that the allegation was mala fide and prima facie false and that prima facie no case was made out, we do not see any justification for applying Section 18 in such cases. Consideration in the mind of this Court in Balothia (1995 3 SCC 221) is that the perpetrators of atrocities should not be granted anticipatory bail so that they may not terrorise the victims. Consistent with this view, it can certainly be said that innocent persons against whom there was no prima facie case or patently false case cannot be subjected to the same treatment as the persons who are prima facie perpetrators of the crime.

51. In view of the decisions in Vilas Pandurang Pawar (2012 8 SCC 795) and Shakuntla Devi (2014 15 SCC 521), the learned ASG has rightly stated that there is no

absolute bar to grant anticipatory bail if no prima facie case is made out inspite of validity of Section 18 of the Atrocities Act being upheld.

xxxx xxxx xxxx xxxx xxxx xxxx xxxx xxxx

53. It is well settled that a statute is to be read in the context of the background and its object. Instead of literal interpretation, the court may, in the present context, prefer purposive interpretation to achieve the object of law. Doctrine of proportionality is well known for advancing the object of Articles 14 and 21. A procedural penal provision affecting liberty of citizen must be read consistent with the concept of fairness and reasonableness.

xxxx xxxx xxxx xxxx xxxx xxxx xxxx xxxx

55. In the present context, wisdom of legislature in creating an offence cannot be questioned but individual justice is a judicial function depending on facts. As a policy, anticipatory bail may be excluded but exclusion cannot be intended to apply where a patently mala fide version is put forward. Courts have inherent jurisdiction to do justice and this jurisdiction cannot be intended to be excluded. Thus, exclusion of Court's jurisdiction is not to be read as absolute."

8. While considering the aforesaid judgment, it has been held further by the Supreme Court in the matter of **Prithvi Raj Chauhan vs. Union of India and others** reported in **(2020) 4 SCC 727** at paragraph 32, which reads as under :-

"32. As far as the provision of Section 18-A and anticipatory bail is concerned, the judgment of Mishra, J. has stated that in cases where no prima facie materials exist warranting arrest in a complaint, the court has the inherent power to direct a pre-arrest bail."

9. The incident is said to have taken place on 14/2/2025 and the FIR was lodged on 14.02.2025. In the FIR registered in the case at hand, there is no mention of any particular caste. In the light of the aforesaid judgments, the bar of Section 18 of the Atrocities Act is not found to be valid as there is no mention of any particular caste in the FIR. Further, on 19.03.2025, a settlement has been reached

between the parties. In such a situation, considering the fact that about 04 months have passed since the incident took place and there is all possibility of taking time in completion of investigation and trial, this Court is of the opinion that it is a fit case in which the appellant should be extended the benefit of anticipatory bail.

10. Accordingly, the appeal is **allowed** and the impugned order dated 06.05.2025 is set aside. It is directed that in the event of arrest of the appellants in connection with the aforesaid crime number, they shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one local surety for the like sum to the satisfaction of the concerned arresting/investigating officer, with the following terms and conditions:

- (i) that the appellants shall make themselves available for interrogation/medical test etc. before the concerned investigating officer as and when required;
- (ii) that the appellants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the appellants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the appellants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

(Sanjay Kumar Jaiswal)
Judge