



209

CRA-S-975-2026

2026:PHHC:066775



-1-

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

CRA-S-975-2026

Date of decision: 30.04.2026

RAM NIWAS

....Petitioner

Versus

STATE OF HARYANA AND ANR.

....Respondents

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Ms. Himani Anand, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG Haryana.

None for respondent No.2.

.....

RUPINDERJIT CHAHAL, J. (ORAL)

1. Present appeal is directed against the order dated 16.03.2026 passed by the learned Additional Sessions Judge, Kaithal dismissing the application of the appellant for grant of anticipatory bail in case FIR No.190 dated 26.08.2024 registered under Sections 115, 118(1), 190, 191(3), 351(2) of the Bharatiya Nyaya Sanhita, 2023 (Section 190, 191(3) deleted and Section 117(2), 238 and 3(5) BNS and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 added later on) at Police Station Siwan, District Kaithal.

2. The brief facts of the present case are that the petitioner, along with the co-accused persons, allegedly assaulted the complainant by giving fist and kick blows and by using a wooden stick and sharp weapons. It is further alleged that bricks were also thrown at the complainant, as a result of which he sustained multiple injuries. Hence the present FIR.



3. Learned counsel for the appellant contended that the appellant has been falsely implicated in the present case in collusion with local police. He submits that the alleged occurrence took place on 24.08.2024 whereas the FIR was registered on 26.08.2024 i.e. after an unexplained delay of two days thereby casting serious doubt on the prosecution story. He further submits that the complainant left the hospital against the medical advise on 24.08.2026 itself and subsequently got recorded his statement after two days by manipulating the injury. He submits that neither the appellant had ever caused any beatings nor used any derogatory words by the name of caste to the complainant. He submits that Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) was added lateron with an intention to falsely rope in the appellant. He further submitted that the appellant has not uttered even a single caste-based word against the complainant and thus, the impugned order is not sustainable in the eyes of law as while passing the same, learned Additional Sessions Judge, Kaithal did not consider the question that ingredients of the SC/ST Act were not at all attracted against him. Appellant has clean antecedents as he is not involved in any other case. He submits that co-accused has already been granted concession of regular bail by this Court vide order dated 11.03.2026 passed in *CRA-S-649-2026*. With these broad submissions, it is urged that the present appeal deserves to be accepted, the impugned order is liable to be set aside and the appellant deserve to be given benefit of pre-arrest bail.

4. Learned State counsel has filed the status report, which is taken on record. He has vehemently opposed the prayer for bail, stating



that the offence committed by the appellant is serious in nature and the bar under Section 18 of the SC/ST Act is applicable. Hence, he prayed that the present appeal is liable to be dismissed. However, he could not controvert the fact that initially the FIR was not registered under the SC/ST Act.

5. None has put in appearance on behalf of respondent No.2 despite service of notice.

6. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

7. In the present appeal, it is not disputed that the FIR in question was initially not registered under the provisions of the SC/ST Act and the said provisions were incorporated subsequently. It is also not disputed that the alleged occurrence is stated to have taken place on 24.08.2024, whereas the FIR came to be registered on 26.08.2024, reflecting a delay of two days. Further, it is a matter of record that the complainant left the hospital against medical advice on the very date of the occurrence and his statement was recorded after a gap of two days and no caste based derogatory word has been attributed to the present appellant. In these circumstances, without commenting upon the merits of the case, this Court is of the considered view that the appellant has made out a case for grant of pre-arrest bail and the bar of section 18 of SC/ST Act is not attracted in the present case. In *Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another (2018) 6 SCC 454*, the Hon'ble Supreme Court observed that anticipatory bail could be granted if a prima facie case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false.



8. More recently, the Hon'ble Supreme Court in ***Kiran v. Rajkumar Jivraj Jain and Anr., 2025 AIR (SC) 4083***; has held that in a given case if 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. The relevant paragraphs are reproduced below:


"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



209
CRA-S-975-2026

2026:PHHC:066775 

-5-

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."

.....emphasis supplied

9. Consequently, in view of the facts and circumstances of the present case and the law laid down by the Apex Court, the present appeal is allowed, the impugned order dated 16.03.2026 passed by the learned Additional Sessions Judge, Kaithal is set aside, and the appellant is ordered to be released on anticipatory bail in the event of his arrest, subject to his furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer and subject to the conditions as envisaged under Section 482(2) BNSS.

10. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(RUPINDERJIT CHAHAL)
JUDGE

30.04.2026

puneet

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No