

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (FOR ANTICIPATORY BAIL) NO. 1126 of 2025**

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CHIPPA SHREEHARI @ SUNNY S/O PARSHURAM
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR M M SHAIKH(11314) for the Appellant(s) No. 1
MR UVESH M SHAIKH(11313) for the Appellant(s) No. 1
DS AFF.NOT FILED (N) for the Opponent(s)/Respondent(s) No. 2
MR. JAY MEHTA, LD.ADDL. PUBLIC PROSECUTOR for the
Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 12/06/2025

ORAL ORDER

1. Rule returnable forthwith. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. By way this appeal under Section 14-A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989,, the applicant has prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No.I-11191013250261 of 2025 registered with Krishnanagar Police Station, Ahmedabad for the alleged offences as mentioned in the FIR.
3. The sum and substance of the case of the prosecution is that on 01.04.2025, when the complainant along with his friends Nanjibhai and Prabhudasbhai were sitting at the common plot inside Dharnidhar Bungalows as per his routine schedule at around 6:00 O'clock in the evening, at that time, the accused

No.1 Sunny Parshurambhai, a resident of Dharnidhar Bungalows came there with his pet dog, and therefore, the complainant asked Sunny to keep the dog away as the said place is a sitting area, and the dog can defecate here, upon which, Sunny got instigated and entered into verbal altercation with the complainant and also hurled abuses to the complainant and also used derogatory words against the caste of the complainant, and then slapped the complainant twice or thrice. Thereafter, Sunny left the place. Then, after some time, Parshuram, his son sunny and one Shashikant again came there and Parshuram entered into verbal altercation with the complainant, and then got instigated and gave three to four pipe blows to the complainant. His son Sunny and Shashikant also gave kicks and fists blows to the complainant, and at that time, Shashikant gave a life threat to the complainant. With this sort of allegations, the present FIR has been registered.

4. Pursuant to the registration of the FIR, the applicant preferred anticipatory bail application before the trial court, however, the said application has not been entertained and is rejected by the trial court.

5. Being aggrieved, the applicant is here before this Court with the present application.

6. Learned advocate Mr. U.M.Shaikh appearing for the applicant submits that the allegations made in the FIR are of such a nature, for which, custodial interrogation of the applicant at this stage is not necessary. He further submits that the applicant will keep himself available during the course of investigation as well as the trial proceedings and will not flee from justice. He

further submits that the present FIR is false, fictitious and is lodged with a mala fide intention to harass the applicant and his son to settle the score and made a mountain of a molehill of a very trivial issue. Learned advocate Mr. Shaikh also submits that the allegations levelled in the FIR against the applicant are under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and thus, in view of bar under Section 18 of the Act, anticipatory bail is ordinarily not maintainable. However, the law is well settled that unless a prima facie case under the SC/ST Act is made out, the bar under Section 18 of the Act does not operate. Learned advocate Mr. Shaikh submits that looking to the allegations levelled in the FIR, the dispute seems to be personal in nature arising out of the heat of the moment on a very trivial issue and not an intentional act committed with a view to humiliate the complainant on account of his caste. He further submits that the allegations of atrocity being meted out to the complainant by the applicant are false, as the same does not satisfy the requirement of uttering casteist slurs in public view, even if, the same is considered to be true, without admitting it. Learned advocate Mr. Shaikh submits that it is a settled law that 'all insults of intimidation will not be an offence under the Act, unless such insult or intimidation is on account of the victim belonging to the Scheduled Castes or Scheduled Tribes', and 'mere knowledge of the caste identity of the complainant is not sufficient to attract the offence under Section 3(1)(r) unless there is intentional insult with an intent to humiliate on account of caste'. He, therefore, submits that the alleged incident is not occurred in public view, which is a mandatory ingredient under Sections 3(1)(r) and 3(1)(s) of the Act. Therefore, in the absence of essential ingredients to

constitute the offence under the SC/ST Act, no prima facie case could be said to have been made out against the applicant, and as such, bar under Section 18 would not be applicable to the facts of the present case. Moreover it was the complainant who provoked the applicant as the dog was standing in the common plot area, and as per the allegations levelled in the FIR, the applicant only made a reference to the caste of the complainant and not used any slur against the caste of the complainant. Thus, making a reference of any person's caste without any insulting words or humiliation, the same cannot be said to be an offence under the provisions of the SC/ST Act. Moreover, neither the complainant nor the witnesses sustained any serious injuries and it was a minor scuffle. Further the applicant does not have any past antecedents. In support of his submissions, learned advocate Mr. Shaikh has relied upon the decision of the Hon'ble Apex Court in the case of Shajan Skaria vs. The State of Kerala & Anr., Criminal Appeal No.2622 of 2024, decided on 23.08.2024.

7. In such circumstances, referred to above, learned advocate for the applicant prays that there being merit in the present application, the same be allowed and the applicant be released on anticipatory bail.

8. On the other hand, the present application has been vehemently opposed by the learned APP. Learned APP submits that the basic and essential ingredients to constitute an offence under the provisions of the SC/ST Act are clearly spelt out from the body of the complaint. Learned APP further submits that initially the dispute cropped up between the applicant and the complainant, however, after that the present applicant along with the co-accused again came at the place of occurrence along with

the weapons in their hands, and beaten the complainant with the said weapons, due to which, the complainant sustained injuries, which is evident from the medical certificate. He also submits that, both the applicant and the complainant are residing in the same premises, and there are CCTV cameras installed in the said premises, and the concerned investigating officer has collected footages of the said CCTV cameras, wherein the applicant can be seen mercilessly beating the complainant, which is recorded by the investigating officer while drawing the Panchnama.

9. In such circumstances, referred to above, learned APP prays that there being no merit in the present application, the same be rejected.

10. Heard the learned counsel appearing for the parties and perused the record.

11. It appears from the record that the name of the applicant along with his specific roles is there in the FIR from the very inception. There are specific allegations of beating and uttering casteist slurs against the caste of the complainant, and the said allegations are still to be investigated by the investigating officer, which is still in progress. From the materials placed on record, prima facie, there appears to be substance in the allegations made by the complainant, and the same are required to be investigated thoroughly, and for that, custody of the applicant is necessary to be there with the investigating officer. Thus, the provisions of Section 18-A of the Atrocity Act would be squarely applicable to the facts of the present case, which restricts to enlarge the applicant on anticipatory bail. Moreover, there are ample evidences collected by the

investigating officer so far, indicating the involvement of the applicant in the commission of the offence.

12. This Court, after considering number of decisions of the Apex Court as well as of this Court, has observed in case of MOHMED SALIM ABDUL RASID SHAIKH V. STATE OF GUJARAT reported in 2001 [2] GLR 1580 as under;

"13. There is no scope for present applicant to urge that he may be saved from disgrace or unwarranted hardship. While entertaining the anticipatory bail application of the accused, the Court should consider various aspects such as;

[i] earlier offences registered against the applicant accused and the nature thereof including the area of activity, modus etc. if brought to the notice of the Court;

[ii] gravity of the circumstances in which the offence is committed. Whether custodial interrogation is, prima facie, unavoidable ?

[iii] likelihood of the accused fleeing from justice;

[iv] position and status of the accused individually and also with reference to the victim and witnesses;

[v] likelihood of repetition of similar type of offence;

[vi] whether he would jeopardise his own life being faced with grief or grim prospects of possible conviction in the case;

[vii] likelihood of tampering with the evidence or witnesses during the process of investigation, status and stage of investigation;

[viii] plea of false implication on some special vendetta, if taken.

[ix] other relevant grounds which may apply to facts and

circumstances of that particular case."

13. Similarly, the Apex Court has also considered the scope of Section 438 in case of DUKHISHYAM BENUPANI, ASSTT DIRECTOR, ENFORCEMENT DIRECTORATE [FERA] V. ARUN KUMAR BAJORIA reported in 1998 [1] SCC 52. The relevant observations made in para-7 are quoted as under :-

"7. It seems rather unusual that when the aggrieved party approached the High Court challenging the order passed by a subordinate court the High Court made the position worse for the aggrieved party. The officials of the Directorate are now injuncted by the Division Bench from arresting the respondent and the time and places for carrying out the interrogations were also fixed by the Division Bench. Such kind of supervision on the enquiry or investigation under a statute is uncalled for. We have no doubt that such type of interference would impede the even course of enquiry or investigation into the serious allegations now pending. For what purpose the Division Bench made such interference with the functions of the statutory authorities, which they are bound to exercise under law, is not discernible from the order under challenge. It is not the function of the Court to monitor investigation processes so long as such investigation does not transgress any provision of the law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order full insulating a person from arrest would make his interrogation a mere ritual."

14. Thus, what is discernible from the above is that while deciding anticipatory bail application, it is the first duty of the Court to see seriousness of the offence, prima facie case and interest of the society at a large. Therefore, when no special and compelling circumstances made out before the Court and no case of false implication of present applicant in the alleged

offence is made out before this Court, I am of the opinion that discretionary powers of this Court should not be exercised in favour of the present applicant. Looking to the gravity of the offence and the nature of allegations, thorough investigation is required to be carried out to unearth the truth, and for that, it is necessary for the investigating officer to keep the applicant-accused in its custody, and as such, this Court deems it proper not to make any hindrance in the investigation by granting respite of anticipatory bail to the accused at this pre-mature stage of investigation.

15. In view of above discussion and considering the material on record produced before this Court, I am of the opinion that there seems to be a prima facie involvement of the present applicant in the commission of the alleged offence. Therefore, this Court is of the opinion that at the initial stage of the investigation of the offence, grant of anticipatory bail in favour of the applicant is likely to hamper the investigation and investigating agency is likely to lose an opportunity to exploit all the fact situation, probabilities or opportunities which the Agency may get during the custodial interrogation of a person, and therefore, keeping in mind all these factors, no interference is required at this stage. The impugned order passed by the trial court rejecting anticipatory bail application of the applicant is just and proper and does not require any interference at the end of this Court.

16. In the result, the present appeal, being devoid of any merit, is hereby rejected. However, it is made clear that the observations made by this Court herein above at this stage

while deciding the anticipatory bail application, would not come in the way of the applicant at the time as and when if ultimately the trial court is proceeded with the trial, and at the stage of consideration of regular bail application, if preferred by the applicant. Rule is discharged.

(DIVYESH A. JOSHI,J)

VAHID

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ABDULVAHID ABDULSATTAR SHAIKH(HC00955), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 16/06/2025 13:05:24