

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.273 of 2025

Lalji Yadav, aged about 49 years, S/o Late Sukan Yadav, R/o At -
Kerwa, PO & PS- Ramkanda, District- Garhwa, Jharkhand

... Appellant

Versus

1. The State of Jharkhand
2. Uday Ram, S/o Ramnath Ram, R/o At - Sabane tola Fagmari, PO
& PS- Ramkanda, District- Garhwa, Jharkhand ... Respondents

For the Appellant : Mr. Sheo Kr. Singh, Advocate
Ms. Juhi Kumari, Advocate
For the State : Ms. Shweta Singh, Addl. P.P.
For the Resp. No.2 : Mr. Ram Kinkar, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Appeal (SJ) has been filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act with the prayer to set aside the order dated 25.02.2025 passed in A.B.P. No.114 of 2025 by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa in connection with Ramkanda P.S. Case No.05 of 2023.

3. The allegation against the appellant is that the appellant has abused the informant by using filthy language and also abused him by taking his caste name and on being protested by the informant, the appellant caught hold of the neck of the informant and attempted to press the same and also threatened to get the informant caught by

A.C.B. and to make complaint against the informant to the Lokpal. On the basis of the written-report submitted by the informant, police registered Ramkanda P.S. Case No.05 of 2023 and took up the investigation of the case. After completion of the investigation, police submitted charge-sheet against the appellant for having committed the offences punishable under Sections 323, 341, 353, 504, 506 of the Indian Penal Code and Section 3 (1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The appellant filed A.B.P. No.114 of 2025 but the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa considered that since the F.I.R. has been registered for the offence punishable under Section 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, hence, in view of the bar under Section 18 of the said Act, the anticipatory bail application filed by the appellant is not maintainable and dismissed the same.

4. Learned counsel for the appellant submits that the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa failed to consider that since there is no allegation anywhere as to the effect that the petitioner abused any member of the Scheduled Caste or Scheduled Tribe by his caste name in any place within public view, the offence punishable under Section 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is not made out. It is further submitted that there is absolutely no material in the record as to which caste the informant belongs to and there is no

averment made anywhere by the informant that he is either a member of the Scheduled Caste or a member of the Scheduled Tribe. So as no penal offence punishable under Section 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is made out against the appellant even if the entire allegations made against him are considered to be true, hence, the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa has committed a grave illegality by rejecting the prayer for anticipatory bail of the appellant. Hence, it is submitted that the prayer, as prayed for in the instant Criminal Appeal, be allowed.

5. Learned Addl. P. P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently opposed the prayer of the appellant made in the instant Criminal Appeal. The learned counsel for the respondent no.2 relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Kiran vs. Rajkumar Jivraj Jain & Another** reported in **2025 INSC 1067** wherein in the light of the parameters in relation to the applicability of Section 18 of the of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, the Hon'ble Supreme Court of India summarized the proposition that Section 18 of the said Act could be read and has to be applied with the riders. The first rider is that 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 pertaining to the commission of such offence are devoid of *prima facie* merits, in

such a case the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code and the second rider is that non-making of *prima facie* case about the commission of offence is another situation; when the Court can arrive at such a conclusion that in the first blush itself or by way of the first impression upon very reading of the averments in the F.I.R. In such case also, anticipatory bail can be granted. It is next submitted that since in this case, the offence punishable under Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is made out against the petitioner, so, no illegality has been committed by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa in rejecting the anticipatory bail application of the appellant. Hence, it is submitted that this Criminal Appeal, being without any merit, be dismissed.

6. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to refer Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act which reads as under:-

3. Punishments for offences atrocities. – [(1) *Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, –*

a. xxxx

s. abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

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7. A plain reading of Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act makes it abundantly clear that the essential ingredients to constitute the offence punishable

under Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act are:-

- (i) the accused must not be a member of the Scheduled Castes or the Scheduled Tribes*
- (ii) the accused must have abused the member of the Scheduled Castes or the Scheduled Tribes by their caste name and*
- (iii) the abuse must have been made in a place within public view.*

8. Now, coming to the facts of the case; there is absolutely no material available in the record to suggest; as to whether the appellant is the member of Scheduled Castes or the Scheduled Tribes. Nowhere it has been mentioned as to which caste the informant belongs to. Nowhere it has been mentioned that the occurrence took at a place within public view. In the absence of these essential ingredients to constitute the offence punishable under Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, this Court is of the considered view that even if the entire allegations made against the appellant are considered to be true in their entirety, still the offence punishable under Section 3 (1) (s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is not made out. Hence, this Court has no hesitation in holding that the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa has committed a grave illegality by rejecting the prayer for anticipatory bail of the appellant; on the ground of the bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act by not following the settled principle of law *inter alia* reiterated by the Hon'ble Supreme Court of India in the case of **Kiran vs. Rajkumar**

Jivraj Jain & Another (supra). Therefore, the impugned order dated 25.02.2025 passed in A.B.P. No.114 of 2025 passed by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa in connection with Ramkanda P.S. Case No.05 of 2023 is not sustainable in law; keeping in view the fact that except the offence punishable under Section 353 of the Indian Penal Code, all other offences are bailable in nature and further, the materials in the record are vague in respect of the offence punishable under 353 of the Indian Penal Code. Hence, this Court is of the considered view that appellant be given the privileges of anticipatory bail.

9. Accordingly, the order dated 25.02.2025 passed in A.B.P. No.114 of 2025 passed by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa in connection with Ramkanda P.S. Case No.05 of 2023, being not sustainable in law, is quashed and set aside and the appellant, named above, is directed to surrender in the Court below within six weeks from today and in the event of his arrest or surrendering, he will be enlarged on bail on furnishing bail bond of Rs.25,000/- (Twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Garhwa in connection with Ramkanda P.S. Case No.05 of 2023 **with the condition that he will co-operate with the trial of the case and appear before the investigating officer as and when noticed by him and furnish his mobile number and photocopy of the Aadhar Card with an undertaking that he will**

not change his mobile number during the trial of the case and he will not annoy or disturb the informant or any of his family members in any manner during the trial of the case and further conditions as laid down under Section 482 (2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. Accordingly, this Criminal Appeal (SJ) is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th of March, 2026
AFR/ Animesh
Uploaded on- 26/03/2026