



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 421 OF 2026 (U/S 14(A) (2))

BETWEEN:

SRI. SHEKARAPPA H.,
S/O SANNARANGAPPA,
AGED ABOUT 72 YEARS,
RESIDING OF, 4/ C MAIN ROAD,
HITHALA VILLAGE,
SHIKARIPURA TALUK,
SHIVAMOGGA-577 427.

...APPELLANT

(BY SRI. PRASHANTH D.,ADVOCATE)

AND:

1. THE STATE BY
SHIKARIPURA RURAL POLICE STATION,
SHIVAMOGGA,
REPRESENTED BY SPP,
HIGH COURT BUILDING,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.

2. SRI. PAVAN KUMAR NAIK,
S/O HANUMANTHA NAIK,
AGED ABOUT 29 YEARS,
RESIDING AT, SALURU VILLAGE,
SHIKARIPURA,
SHIVAMOGGA-577 427.

...RESPONDENTS

(BY SRI. B. LAKSHMAN, HCGP FOR R1
SRI. RUDRESH R.S., ADVOCATE FOR
SRI. DEEPAK M., ADVOCATE FOR R2)





THIS CRL.A IS FILED U/S 14(A)2) OF SC/ST (POA) ACT PRAYING TO SET ASIDE THE ORDER DATED 20.02.2026, PASSED BY II ADDL.DISTRICT AND SESSION COURT, SHIVAMOGGA IN CRL.MISC.NO.98/2026 AND RELEASE THE APPELLANT IN THE EVENT OF ARREST IN CR.NO.13/2026 OF SHIKARIPURA RURAL P.S. REGISTERED FOR THE OFFENCE P/U/S 352 R/W 3(5) OF BNS AND SEC. 3(1)(r)(s), 3(1)(s), 3(2)(va) OF SC/ST(POA) ACT AMENDMENT ACT 2015, PENDING BEFORE THE ADDL.DISTRICT AND SESSION COURT, SHIVAMOGGA DISTRICT.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL JUDGMENT

This appeal is filed by the accused in Crime No.13/2026 registered before the Rural Police Station, Shikaripura for the offences punishable under Sections 352 read with Section 3(5) of BNS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 ('SC & ST (POA) Act' for short), being aggrieved by the order dated 20.02.2026 passed in Crl.Misc.No.98/2026 on the file of the II Additional District and Sessions Judge, Shivamogga (hereinafter referred to as 'the Trial Court'

2. Case of the respondent No.1-Police is that a complaint dated 17.01.2026 came to be filed by the respondent No.2-



defacto complainant alleging that on 16.01.2026 at about 11.50 a.m., when he and his friend Prashanth went to the land of their common friend Prathap son of Lohithashwa, to turn off the water valve, the appellant herein in a raised voice asked as to who they are and to which caste do they belong and when the complainant informed that he belonged to Lambani caste, the appellant herein had abused them stating that the land belonged to God Basavanna and the people of his caste should not come to their land. When resisted, he further abused respondent No.2-defacto complainant in the name of his caste in the presence of one Manjunatha, Siddhappa, Muthuraj, Eswarappa, Pankajkumar, Krishna Naik, who consoled and sent them away.

3. Based on the aforesaid complaint, respondent No.1-Police registered a case in Crime No.13/2026 for the aforesaid offences.

4. The trial Court rejected the application filed by the appellant herein for the anticipatory bail in the light of bar contained under Section 18A of the SC and ST (PoA) Act.



5. Learned counsel for the appellant submits that the said case is a fabricated one only to foist a false criminal case against the appellant, who is a plaintiff in O.S.No.112/2025, a suit filed by him against aforesaid H.L. Pratap son of Lohithashwa for relief of permanent injunction with respect to land in Sy.No.173/6, measuring 2 acre and 26 guntas and Sy.No.175/6 measuring 1 acre and 21 guntas situated at Hithala Village, Anjanapura Hobli, Shikaripura Taluk, Shivamogga District. He further submits that no such incident has ever taken place as alleged in the complaint. Even if such incident had taken place, the same is allegedly taken place in the land belonging to the appellant. As such, the same cannot be termed as a public place, inviting commission of offence under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC and ST (PoA) Act. Therefore, he submits that no prima facie case is made out against the appellant and the bar contained under Section 18A of the SC and ST (PoA) Act cannot be invoked in the case of this nature. Hence seeks for allowing of the appeal.

6. Learned counsel for the respondent No.2-defacto complainant submits that the defacto complainant is a friend of aforesaid H.L. Pratap son of Lohithashwa, and on the



instructions of said H.L. Pratap, he had gone to the land of the appellant to turn off the water valve. He had gone with a bonafide belief to carry out the instructions given by H.L. Pratap and he was not aware of any pending dispute between the appellant and said H.L. Pratap. He submits that the respondent No.2-defacto complainant is carrying on the business in a neighboring village. The complaint was required to be filed since the appellant had abused him in the name of his caste. Hence, he seeks for rejection of the appeal.

7. Learned HCGP, reiterating the reasons assigned by the trial Court in rejecting the application seeks for dismissal of the appeal.

8. Heard and perused the records.

9. The complaint produced as per Annexure-B reads as under:

"ದಿನಾಂಕ 16/01/2026 ರ ಶುಕ್ರವಾರ ಸಮಯ ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 11.50 ಕ್ಕೆ ನಾನು 4 ನ್ನ ಸ್ನೇಹಿತ ಪ್ರಶಾಂತ ಸೇರಿ ನನ್ನ ಸ್ನೇಹಿತ ಪ್ರಾತಾಪ್ ಬಿನ್ ಲೋಹಿತಾಶ್ವರ ಜಮೀನಿಗೆ ವಾಲ್ ತಿರುವಲು ಹೋದಾಗ ಏಕಾಏಕಿ ಹಿತ್ತಲ ಗ್ರಾಮದ ವಾಸಿ ಶೇಖರಪ್ಪ ಬಿನ್ ಸಣ್ಣರಂಗಪ್ಪ ಯಾರೋ ನೀವು ಎಂದು ಏರು ಧ್ವನಿಯಲ್ಲಿ ಕೇಳಿದ. ಆಗ ನಾನು ಸಾಲುರು ಗ್ರಾಮದವರು



ಎಂದೇ ಯಾವ ಜಾತಿ ನಿಮ್ಮದು ಎಂದು ಶೇಖರಪ್ಪ ಕೇಳಿದ ಆಗ ನಾನು
ಲಂಬಾಣಿ ಎಂದೇ ಏಕಾ ಏಕೆ ಶೇಖರಪ್ಪ ಇಲ್ಲಿ ಬಸವಣ್ಣ ದೇವರು ಇದೆ
ನಿಮ್ಮಂತ ಕೀಳು ಜಾತಿ ಜನ ಇಲ್ಲಿಗೆ ಬರಬಾರದು ಎಂದು ನಿಂದಿಸಿ
ತೊಡಗಿದೆ. ಯಾಕಪ್ಪ ಈರೀತಿ ಮಾತನಾಡುತ್ತಿದ್ದೀಯ ಎಂದು ಪ್ರಶ್ನೆ
ಮಾಡಿದಕ್ಕೆ ಹೋಗಲೇ ಲಂಬಾಣಿ ಸುಳೇ ಮಗನೇ ನಿಮ್ಮಂತ ಎಸ್.ಸಿ
ಜನ ಇಲ್ಲಿಗೆ ಬರಬಾರದು ಎಂದು ನಿಂದಿಸಿದ ಮುಂದುವರೆದು ಈತನ
ತಮ್ಮ ಲೋಹಿತಾಶ್ವನ ಕುರಿತು ಬೋಳಿ ಮಗ ಲಂಬಾಣಿ ಜಾತಿಯವರಿಗೆ
ಜಮೀನು ಮಾರಾಟ ಮಾಡಲು ಹೊರಟಿದ್ದಾನೆ. ಎಂದು ನಿಂದಿಸಿ
ತೊಡಗಿದೆ. ಆಗ ಅದೇ ಹಿತ್ತಲ ಗ್ರಾಮದ ಮಂಜನಾಥ ಬಿ.ಎಸ್.ಬಿನ್
ಸಿದ್ದಪ್ಪ ಬಿ ಮುತ್ತುರಾಜ್ ಬಿನ್ ಈಶ್ವರಪ್ಪ ಪಂಕಜ್ ಕುಮಾರ್ ಬಿನ್
ಕೃಷ್ಣನಾಯ್ಕ ಇವರುಗಳು ನಮಗೆ ಸಮಾದಾನ ಮಾಡಿ ಕಳಿಸಿದರು.
ಶೇಖರಪ್ಪ ಈ ಮೂರು ಜನರ ಮುಂದೆಯೇ ನಮ್ಮನ್ನು ನಿಂದಿಸಿದು ಇವರೇ
ಗಲಾಟೆ ಬಿಡಿಸಿ ಕಳಿಸಿದರು. ನಾನು ಬೇರೆ ಉರಿನವರಾಗಿದ್ದದರಿಂದ
ಏನು ಮಾತನಾಡದೇ ಹಾಗೇ ಸುಮ್ಮನ್ನೇ ಬಂದೇವು ಅದರಿಂದ ನನ್ನ
ಜಾತಿಯ ಬಗ್ಗೆ ಬಹಳ ಹಗುರವಾಗಿ ಹಾಗೂ ನಮ್ಮನ್ನು ಅವಾಚ್ಯವಾಗಿ
ನಿಂದಿಸಿದ ಶೇಖರಪ್ಪ ಬಿನ್ ಸಣ್ಣರಂಗಪ್ಪರ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ
ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ. ಮುಖಂಡರು, ತೀರ್ಮಾನ ಮಾಡೋಣ
ಎಂದು ಹೇಳಿದ್ದಕ್ಕೆ ದೂರು ಕೊಡಲು ತಡವಾಗಿರುತ್ತದೆ”.

10. Perusal of the said complaint indicates that;

(a) the respondent No.2-defacto complainant had
gone to the land belonging to the appellant herein,
purportedly on the instruction given by his friend
H.L. Pratap son of Lohithashwa. It is necessary to
note that the respondent No.2-defacto complainant is
a resident of Saluru Village, Shikaripura Taluk,



Shivamogga. The land over which he allegedly gone to turn off the water valve upon the instruction given by his friend H.L. Pratap is situated in Hithala Village, Anjanapura Hobli, Shikaripura Taluk, Shivamogga District.

(b). Nothing in the complaint would indicate the reason for him to have gone from Saluru Village to Hithala Village, except for the purported purpose of turning off the water valve in the land belonging to the appellant herein. The complaint further indicate that the appellant herein had allegedly asked the name of the caste of the respondent No.2-defacto complainant to which he had replied that he belonged to Lambani caste. It is allegedly thereafter, appellant abused him in the name of his caste. This would indicate that the appellant did not know to which caste the respondent No.2-defacto complainant belonged to.

(c). The third aspect of the matter emanating from the complaint is that the alleged incident has taken



place within the land belonging to the appellant herein which cannot under any circumstances be considered as a public place.

11. In the light of the aforesaid three counts of allegations, this Court is of the considered view that there are no prima-facie materials against the appellant herein of he committing any offences punishable under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC and ST (PoA) Act.

12. Further, the Hon'ble Apex Court in the case of ***Shajan Skaria v. State of Kerala and Another*** reported in **2024 SCC Online SC 2249** referring to various provisions of Protection of Civil Rights Act, 1955 as well as SC/ST (POA) Act at paragraphs 69, 70, 72 and 80 has held as under:

"69. *What appears from the aforesaid discussion is that the expression "intent to humiliate" as it appears in Section 3(1)(r) of the Act, 1989 must necessarily be construed in the larger context in which the concept of humiliation of the marginalised groups has been understood by various scholars. It is not ordinary insult or intimidation which would amount to 'humiliation' that is sought to be made punishable under the Act, 1989. The Parliament, by way of different legislations, has over the years sought to target humiliation based on different grounds and identities which exist in the society. The Protection of Women from Domestic Violence Act, 2005 seeks to punish humiliation based on gender inequalities by specifically including the term 'humiliation' in the definition of "domestic violence". Similarly, The Sexual Harassment of Women at Workplace*



HC-KAR

NC: 2026:KHC:21917
CRL.A No. 421 of 2026

(Prevention, Prohibition and Redressal) Act, 2013 includes treatment causing humiliation to a female employee and which may likely affect her health and safety within the definition of sexual harassment.

70. *In our considered view, it is in a similar vein that the term 'humiliation' as it appears in Section 3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members.*

72. *It is clear from a plain reading of the aforesaid provision that any insult against a member of a Scheduled Caste or Scheduled Tribe on the ground of "untouchability" was punishable with imprisonment for a maximum term of six months under the Civil Rights Act. With the passage of time, it was realised by the legislature that the Civil Rights Act was not adequately sufficient to tackle caste-based offences and the practice of "untouchability", leading to the enactment of the Act, 1989 introducing more stringent provisions for combating such practices. Section 3(1)(r) of the Act, 1989 should, thus, be seen in the context of Section 7(1)(d) of the Civil Rights Act. Seen thus, the words "with an intent to humiliate a member of a Scheduled Caste or Scheduled Tribe" become inseparable from the underlying idea of "untouchability" which is sought to be remedied and punished by the Act, 1989.*

80. *At the cost of repetition, the words in Section 3(1)(r) of the Act, 1989 are altogether different. Mere knowledge of the fact that the victim is a member of the Scheduled Caste or Scheduled Tribe is not sufficient to attract Section 3(1)(r) of the Act, 1989. As discussed earlier, the offence must have been committed against the person on the ground or for the reason that such person is a member of Scheduled Caste or Scheduled Tribe. When we are considering whether prima facie materials exist, warranting arrest of the appellant, there is nothing to indicate that the allegations/statements alleged to have been made by the appellant were for the reason that the complainant is a member of a Scheduled Caste".*

13. As regards bar contained under Section 18A of the SC and ST Act, the Hon'ble Apex Court in the case of **Kiran Vs. Rajkumar Jivraj Jain and another** reported in **2025 SCC**



OnLine SC 1886, at paragraph Nos.6, 6.1 and 6.2 has held as under:

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. P.C., 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 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.

14. Further, the appellant who is aged about 72 years is stated to be permanent resident and the owner of the land. Therefore the question of apprehension of he fleeing the jurisdiction of the Court would not arise. The respondent No.2- defacto complainant belonged to the different village, as such the possibility of appellant influencing him also may not arise.



In the light of the facts involved in the matter and the law governing grant of anticipatory bail, this Court at this juncture is of the considered view that the bar contained under Section 18A of SC/ST (POA) Act cannot be strictly applied. Averments and allegations made in the complaint cannot strictly be construed to indicate, in the peculiar facts and circumstances of the matter, commission of offence falling within the rigor of Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act. Therefore, the following:

ORDER

- (1) The criminal appeal is ***allowed***.
- (2) The order dated 20.02.2026 passed in Crl.Misc.No.98/2026 on the file of the II Additional District and Sessions Judge, Shivamogga is set aside.
- (3) The appellant shall be released on bail, in the event of his arrest in Crime No.13/2026 for the offences punishable under Section 352 read with Section 3(5) of BNS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 2015, subject to following conditions:

- (i) The appellant shall execute a bond for a sum of Rs.1,00,000/-(Rupees One Lakh only) with two sureties for the likesum.
- (ii) The appellant shall appear before the jurisdictional Court within 15 days from the date of receipt of certified copy of this order and obtain regular bail.
- (iii) The appellant shall appear before the jurisdictional Police Station and mark his attendance once in every fifteen days between 10.00 a.m. and 6.00 p.m. and co-operate with the investigation process till filing of charge-sheet.
- (iv) The appellant shall not leave the jurisdiction of the trial Court without prior permission.
- (v) The appellant shall not influence or in any manner tamper with the prosecution witnesses.

**Sd/-
(M.G.S. KAMAL)
JUDGE**