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

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Date of Decision: 10.09.2025

Deepak @ Deepu Thakur

...Appellant

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL**

Present: Mr. Himanshu Setia, Advocate for the appellant.

Mr. Mohit Chaudhary, AAG, Haryana.

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**RUPINDERJIT CHAHAL, J (ORAL)**

1. Present appeal is directed against the order dated 18.08.2025 passed by the Additional Sessions Judge, Hisar dismissing the application of the appellant for grant of anticipatory bail in case FIR No.548 dated 05.09.2024 registered under Sections 115, 190, 191(2), 191(3), 351(3) and 117(1) of the Bharatiya Nyaya Sanhita, 2023 and Section 25/54/59 of the Arms Act and Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes, 1989 (hereinafter in short as 'SC/ST Act'), at Police Station City Hansi, District Hisar.

2. Brief facts as per the prosecution case are that the petitioner along with 15-20 other co-accused had caused injuries to the complainant and broke his hands and legs as well as abused him in the name of his caste, due to some old enmity.

3. Learned counsel for the appellants contends that the appellant

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has been falsely implicated in the present case and he has no concern with the said incident. He further contends that the appellant has not committed any such offence and no offence has been attributed to the present appellant. He argued that the no offence under SC/ST Act is made out against the appellant because the essential ingredients i.e. public view is missing. He further argued that the name of the appellant was cropped up merely because he was standing there and no specific role has been attributed to him. No recovery is to be effected from him. He further argued that it is a settled law that mere presence in an alleged unlawful assembly, without any independent and precise role, cannot by itself justify the denial of anticipatory bail. Further, co-accused Rajesh has already been granted the concession of anticipatory bail by this Court, vide order dated 01.05.2025 and co-accused Sahil, Dharambir alias Golu, Kimti, Suresh alias Jambhal and Krishan have also been granted the benefit of regular bail by the Court of learned Additional Sessions Judge, Hisar. He further argued that the custodial interrogation of the appellant is not required for any recovery and he is ready and willing to join the investigation as and when called upon to do so by the investigating agency.

4. After registration of the FIR, investigation has been initiated and is under way. Apprehending his arrest, the appellant had moved an application for grant of anticipatory bail which has been dismissed by the Court of learned Additional Sessions Judge, Hisar, vide order dated 18.08.2025.

5. On the other hand, learned State counsel, has filed the status report in the matter, which is taken on record and while referring to the same,

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he has opposed the prayer for grant of anticipatory bail on the ground that the allegations levelled against the appellant are serious in nature and he has been specifically named in the FIR. He argued that the appellant is clearly visible in the CCTV footage, wherein, he can be seen hitting the complainant with danda. He has further submitted that the appellant has criminal antecedents as he is also involved in one more FIR meaning thereby he is a habitual offender. He further submits that the custodial interrogation of the appellant is required for fair and proper investigation in the matter as well as to effect recovery of weapon of offence used in the crime. Hence, he prays for dismissal of the petition.

6. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It would be apposite to refer herein judgment of Hon'ble Supreme Court in '***State Vs. Anil Sharma***', (1997) 7 SCC 187, wherein it has been held as under:

*"6. We find, force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is*



*interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."*

7. More recently, a three Judge Bench of Hon'ble Supreme Court in the case of '***Kiran v. Rajkumar Jivraj Jain***'; ***Criminal Appeal No. 3867 of 2025 (Special Leave Petition (CRL.) No. 8169 of 2025)***, decided on **01.09.2025**, has categorically held that anticipatory bail is permissible under SC/ST Act only if *prima facie* offence is not made out. Relevant part of the same is reproduced hereunder:-

*"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*



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*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.”*

8. In the present case, the allegations against the present appellant are serious in nature. As per the status report, the presence of the appellant is visible in the CCTV footage wherein he can be seen hitting the complainant with danda and also a *prima facie* case is made out against the appellant and ingredients of offence under Section 3 of SC/ST Act are duly established. The specific caste words “dhed, dhanak and chamar” were used by the appellant with clear intention to insult the complainant which finds mention in the FIR itself. The custodial interrogation of the appellant is also necessary for effective investigation and if it is denied, it will leave many loose ends, which is not desired. Thus, the present appeal being devoid of merits is accordingly dismissed.

9. It is made clear that nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

**(RUPINDERJIT CHAHAL)**  
**JUDGE**

10.09.2025

D.Bansal

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No