



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

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CRA-S-1940-2025 (O&M)
Date of decision : 23.09.2025

JagdishAppellant

V/S

State of Haryana and anotherRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. L.M. Gulati, Advocate for the appellant.

Ms. Priyanka Sadar, Senior D.A.G., Haryana.

Mr. Parminder Singh, Advocate for respondent No.2.

NAMIT KUMAR, J. (ORAL)

1. The appellant has filed the instant appeal challenging the order dated 02.06.2025 passed by learned Additional Sessions Judge, Fast Track Special Court, Sirsa, whereby an application filed by the appellant under Section 438 of Code of Criminal Procedure, 1973/ Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in case FIR No.17 dated 21.05.2025 registered under Sections 115, 333, 351(2) & 74 of Bharatiya Nyaya Sanhita, 2023 and Sections 3(2)(V)(A) & 3(1)(ii) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Women Police Station Mandi Dabwali, District Sirsa, has been dismissed.

2. Brief facts of the case are that on 21.05.2025, the prosecutrix made a complaint to the police alleging therein that she is a household lady. She has two children. Her husband doing a work of



labourer. She does not keep good health. About one month back, their neighbour Jagdish alias Bhagta (the present appellant), who worships Hanuman Ji, came to their house along with her husband and gave her a Dora (thread) and instructed her to tie it on her hand and then she will be fine. Thereafter, the appellant started meeting her husband. On 16.05.2025 at about 09.00 AM, when she was alone in her house then the appellant came to her house and on finding her alone, he demanded water from her and when she went to the kitchen to bring water, then he caught hold her from behind and touched her breast. When she raised objection, he started scuffling with her and threatened her that this time she (Dhedhni) has been saved but in future, he would kill her if she told about the incident to anyone. She did not tell about the incident to anyone, as she was not feeling well. However, she told about the incident to her husband later on. On the basis of the said statement, the instant FIR was registered.

3. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present case. He submits that there is unreasonable and unexplained delay of 05 days in lodging of the FIR as the incident took place on 16.05.2025 and the FIR was registered on 21.05.2025. He submits that the story made by the complainant is concocted one. In fact the complainant had taken money from the appellant and the appellant requested her so many times to repay the money but to no avail. He submits that the appellant, who is 65 years old, has clean antecedents. He further submits that no recovery is to be effected from the appellant and he is ready to join the



investigation. Therefore, the impugned order dated 02.06.2025 may be set aside and the appellant may be granted anticipatory bail.

4. Per contra, learned State counsel assisted by learned counsel for respondent No.2/complainant, while referring to the averments made in the status report, has vehemently opposed the prayer for grant of anticipatory bail to the appellant on the ground that the appellant entered into the house of the prosecutrix and tried to molest her and also abused her with caste based remarks. She further submits that custodial interrogation of the appellant is necessary for thorough investigation of the case, therefore, he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties and perused the record.

6. As per the prosecution, on 16.05.2025 at about 09.00 AM, when the prosecutrix was alone in her house, the appellant came to her house and demanded water from her and when she went to kitchen to fetch water, then he caught hold her from behind and tried to molest her. When she raised objection, he started scuffling with her and threatened her with caste based abuse, stated that 'Dhedhni' has been saved today but if she told about the incident to anyone, he will kill her. In her statement recorded under Section 183 of BNSS, the prosecutrix also made a specific allegations against the appellant. The said statement reads as under :-

“Stated that on 16.05.2025 at 9:00 A.M., Jagdish Bhagta Bishnoi came to my house. At that time no one was present at home. Jagdish had come to my house for



exorcize, he asked me for water. None was present at home. When I went inside the room for taking water, then Jagdish Bhagta caught hold of me from behind. When I cried, he said to me that he wants to suck the tomatoes. I started crying, then he started man handling me and started molesting me. He said me to get his work done, then you can do as you can. I do not afraid of anyone and he said to me that he did not afraid of anyone. When I said to him, Uncle what are you doing with me, then he said "Dhedni" I has exorcise you and now you Dhedni are throwing tantrums and that you of lower caste are showing tantrums to me. I am from Meghwal caste and he gave caste abuse to me. Then I called my sisters, whose house is situated near to my house, who came there, then Jagdish went from there and while going said that today my work left pending and he will not leave me in future. He also threatened to kill me, my husband, son and daughter and also threatened that if I tell to anyone, then will teach lesson to me. I apprehend my prestige and also apprehend danger to the life of family from him. Jagdish Bishnoi son of Surya Ram committed wrong act with me. I want the justice and strict punishment be given to him."

7. During investigation, the statement of sister of the prosecutrix namely Vanita Rani was also recorded, wherein she has stated about the presence of the appellant in the house of the prosecutrix on 16.05.2025 and that when she reached at the house of the prosecutrix, she saw that the appellant was hurling caste based abuses at her sister.

8. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. Pradeep Sharma : (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. (now



Section 482 of the BNSS) is somewhat extraordinary in character and it is to be exercised only in exceptional cases, where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty. Also in determining the parameters in granting anticipatory bail in cases of serious offences, the Hon'ble Supreme Court in ***Bhadresh Bipinbhai Seth v. State of Gujarat and another, (2016)1 SCC 152*** after analysing the entire law has observed as under: -

“23. xx xx xx xx xx

(a) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

(b) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*

(c) *The possibility of the applicant to flee from justice;*

(d) *The possibility of the accused's likelihood to repeat similar or other offences;*

(e) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*

(f) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*

(g) *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and*



caution, because over implication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail. xx xx xx”

9. The allegations against the appellant are serious in nature as the appellant has entered into the house of the prosecutrix when she was alone and outraged her modesty. Curtailing his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect the witnesses at this stage. Reliance can be placed upon the dictum of the Hon'ble Supreme Court in ***Prem Shankar Prasad Vs. The State of Bihar and another : 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh Vs. High Court of Judicature at Patna through its Registrar General and another : (2020)19 Supreme Court Cases 364***, wherein the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the appellant.



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10. No other point has been argued.
11. In view of the facts and circumstances of the case, I am of the considered view that the appellant cannot *prima facie* be said to have been falsely enroped in the crime as the prosecutrix, in her statement recorded under Section 183 of BNSS, has also made specific allegations against the appellant and sister of the prosecutrix also witnessed the presence of the appellant in the house of the prosecutrix on the date of incident. Therefore, custodial interrogation of the appellant is necessary in the case and there is a likelihood that the appellant may abscond and misuse his liberty. Thus, he does not deserve the concession of anticipatory bail.
12. Consequently, the instant appeal is dismissed.
13. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

23.09.2025

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**(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No