IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 26th OF SEPTEMBER, 2025

CRIMINAL APPEAL No. 4015 of 2025

MUKESH KUMAWAT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Mayank Mishra - Advocate for the petitioner.

Shri Rajendra Singh Suryavanshi -GA appearing on behalf of Advocate General.

WITH

CRIMINAL APPEAL No. 4016 of 2025

MOHIT JAT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Mayank Mishra - Advocate for the petitioner.

Shri Rajendra Singh Suryavanshi -GA appearing on behalf of Advocate General.

ORDER

Both the criminal appeals under section 14A(2) of the SC &

ST (POA) Act, 1989 are preferred challenging the order dated 11.04.2025 by Special Judge SC & ST (POA) Act, 1989, Dhar, whereby the applications of appellants for grant of anticipatory bail due to apprehension of arrest in crime no.99/2025 under sections 126(2), 115(2), 119, 351(3), 3(5) of the BNS, 2023 and section 3(1)(r), 3(1)(s), 3(2)(va) of the SC & ST (POA) Act, 1989, registered at police station Sardarpur, district Dhar have been rejected.

2. Facts in brief are that on 29.03.2025 a crime no.99/2025 was registered at police station, Sardarpur, District Dhar (M.P) against the appellants who do not belong to the SC or ST category on the complaint of respondent No.2, a woman belonging to SC category and working as teacher in a school at Sardarpur, District Dhar.

3. In the complaint the incident was stated that on 06.03.2025 at 12.30 p.m when respondent No.2 was performing her work of conducting examinations at the school, appellants reached there and introduced themselves as journalists and asked why she has classified one student as private. She replied that minimum attendance of 75% were not completed so as per the policy the list has been updated on the portal. The appellants started to prepare the video of the school and the teacher, then the teachers of the school including the respondent No.2 asked that examination work is being

conducted so no such video should be prepared and any how appellants left the school. Thereafter at 1.00 p.m when respondent No.2 was going to her residence by walking, then appellants appeared suddenly with bike and restrained her way and demanded Rs.1 lakh with threat that if the demand is not fulfilled, then they will circulate the video in which they have procured admission of taking the money from the students and other threat were extended. Respondent No.2 raised objection not to blackmail her, then the appellant Mohit Jat slapped and threshed her. She fell down and sustained injuries in the abdomen and left hand. The respondent No.2 cried. The appellant Mahesh Kumawat took baseball from the motorcycle and respondent No.2 asked what harm she has caused, then Mahesh Kumawat assaulted her in the abdomen by fist and threatened that they will publish news and circulate the video in the social media and uttered casteist remarks and insulted and humiliated her. When she raised objection, then appellant Mohit Jat again threatened her. She fell down and sustained injuries on the eye brow of left side and in the stomach. They further threatened that if Rs.1 lakh is not paid, then they will spread the video and will defame her. The threat was extended that if the report is lodged, then they will kill her. The respondent No.2 was so terrified that she got in depression. Her relatives and husband supported her then after

recovery from depression, she lodged the report on 29.03.2025 and the crime no.99/2025 was registered for the aforesaid offences.

4. Both the appellants preferred separate applications for anticipatory bail before the Special Judge (SC &ST (POA) Act, 1989), Dhar. The respondent No.2 appeared in person before the Special Judge (SC & ST (POA) Act, 1989 and objected the applications.

5. Trial Court discussed **Hitesh Verma vs. State of Uttarakhand -(2020) 10 SCC 710**; **Girija Pandya vs. State of Andhra Pradesh -(2008) 12 SCC 531**; **Pritviraj Chouhan vs. Union of India - (2020) 4 SCC 727** and Annexure A/2, A/3 & A/4 filed by the appellants and dismissed the applications for anticipatory bail recording the finding that bar under section 18 of the SC & ST (POA) Act, 1989 is attracted in this case.

6. Challenging the order of Special Judge (SC & ST (POA) Act, 1989, the appellants have preferred these appeals on the ground that they received information regarding illegal recovery of money from the students, then they visited the school and covered the whole story. Due to this, respondent No.2 threatened the appellants that she will file false and frivolous complaint against the appellants. The appellants raised the issue through the media platform on 7th and 26.03.2025, then respondent No.2/complainant with malice,

ulterior motive and hidden intentions filed file a false and frivolous complaint against the appellants. The appellants requested to initiate appropriate action against the respondent No.2 but no action was taken on their complaint. The students of the school have given affidavit that respondent No.2/complainant was recovering illegally money and she returned the said amount only when they raised the issue. The story narrated in the FIR is prima facie cooked up story created just to harass the appellants. Even the contents of the FIR do not disclose a prima facie case against the appellants. The allegations made in the complaint do not warrant immediate arrest of the appellants. The arrest should be the last resort and should not be made in a routine manner. The delay of 23 days have no reasonable justification. If they are not extended the benefit of anticipatory bail they their professional life, family life as well as social life would be adversely affected. They are young students residing within Dhar district. There is no apprehension that they will abscond. They will abide the terms and conditions of bail.

7. Heard.

8. Counsel for the respondent No.1 opposed the appeals on the ground that Special Judge (SC & ST (POA) Act, 1989 has considered all the aspects and correctly found that the bar under section 18 of the SC & ST (POA), 1989 is attracted. Apart from

that, with the result of enquiry on the application of appellants in compliance of order dated 17.05.2025 in W.P.No.17350/2025 it is found that respondent No.2 has committed no offence and the compliant of appellant Mohit Jat is prima facie with a view to defend themselves in future.

9. Perused the record along with report No.2026 of 2025 dated 25.09.2025 of police station Sardarpur, District Dhar, M.P prepared in compliance of order dated 17.05.2025 in Writ Petition No.17350/2025 (Mohit Jat vs. State of M.P & others).

10. Firstly, this court is referring to para-6 of **Gorige Pentaiah vs. State of Andhra Pradesh and others - (2008) 12 SCC 531**; para-8 and 9 of **Asmathunnisa vs. State of Andhra Pradesh - (2011) 11 SCC 259**; and para-14 & 15 of **Ummed Singh and others vs. State of M.P and another - 2013 (3) MPHT 229** on which appellants have placed reliance in support of their arguments.

11. Para-6 of Gorige Pentaiah (supra) is being reproduced as below:

> 6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the

> Scheduled Caste or a Scheduled Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law

12. Para-8 & 9 of **Asmathunnisa (supra)** are being reproduced as below:

> 8. In this connection, learned counsel for the appellant has placed reliance on a judgment of the Kerala High Court in E. Krishnan Nayanar v. Dr. M.A. Kuttappan & Others 1997 Crl. L.J. 2036. The relevant paragraphs of this judgment are paras 12, 13 and 18. The said paragraphs read as under:
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> > "12. A reading of Section 3 shows that two kinds of insults against the member of Scheduled Castes or Scheduled Tribes are

made punishable – one as defined under sub-section (ii) and the other as defined under sub-section (x) of the said section. A combined reading of the two sub-sections shows that under section (ii) insult can be caused to a member of the Scheduled Castes or Scheduled Tribes by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood, and to cause such insult, the dumping of excreta etc. need not necessarily be done in the presence of the person insulted and whereas under sub-section (x) insult can be caused to the person insulted only if he is present in view ofthe expression "in any place within public view". The words "within public view", in my opinion, are referable only to the person insulted and not to the person who insulted him as the said expression is conspicuously absent in sub-section (ii) of Section 3 of Act 3/1989. By avoiding to use the expression "within public view" in sub-section (ii), the Legislature, I feel, has created two different kinds of offences an insult caused to a member of the Scheduled Castes or Scheduled Tribes, even in his absence, by dumping excreta etc. in his premises or neighbourhood and an insult by words caused to a member of the Scheduled Castes or Scheduled Tribes "within public view" which means at the time of the alleged

> insult the person insulted must be present as the expression "within public view" indicates or otherwise the Legislature would have avoided the use of the said expression which it avoided in sub-section (ii) or would have used the expression "in any public place".
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> 13. Insult contemplated under sub-section (ii) is different from the insult contemplated under sub- section (x) as in the former a member of the Scheduled Castes or Scheduled Tribes gets insulted by the physical act and whereas is the latter he gets insulted in public view by the words uttered by the wrongdoer for which he must be present at the place.
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> xxx xxx xxx
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> 18. As stated by me earlier the words used in sub- section (x) are not "in public place", but "within public view" which means the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted. In my view, the entire allegations contained in the complaint even if taken to be true do not make out any offence against the petitioner".

9. The aforesaid paragraphs clearly mean that the words used are "in any place but within public view", which means that the public must view the person being insulted for which he must be present

and no offence on the allegations under the said section gets attracted if the person is not present.

13. Para-14 & 15 of **Ummed Singh (supra)** are being reproduced as below:

> 14. The highlighted portion by this Court shows that the argument of learned Public Prosecutor is devoid of merits and substance. The Apex Court held that when offece under section 3(1)(x) of the SC/ST Act is prima facie not made out and if there is no specific averment in the complaint regarding insult or intimidation with intent to humiliate by calling with caste name, anticipatory bail is not barred. It is further held that although there is no scope of critical examination of evidence at the stage of considering anticipatory bail, consideration of the complaint, FIR or evidence on its face value is permissible for considering whether case under section 3(1)(x) of the SC/ST Act is prima facie made out. A bare perusal of the judgment of Vilas Pandurang Pawar (supra), shows that if the litmus test laid down by Supreme Court is satisfied, anticipatory bail can be granted under section 438 of the Code of Criminal Procedure. It is also clear that the Court must satisfy itself that prima facie case under Section 3(1)(x) is not made out and, therefore, anticipatory bail can be entertained.

15. Thus, the contention of the learned Public Prosecutor for the State cannot be accepted. In the opinion of this Court, the objection regarding maintainability of anticipatory bail in the teeth of section 18 of the SC/ST Act deserves to be and is accordingly overruled. The Supreme Court in para 13 in Vilas Pandurang Pawar (supra), dealt with the facts of the case on hand and it is of no assistance to the State.

14. Now this Court is referring to para-6 of **Kiran vs. Rajkumar Jivraj Jain and another - 2025 INSC 1067** to address the issue raised by the appellants in this case which reads 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.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 room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.
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> 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.

15. In the light of Kiran (supra) only the contents and allegations in the FIR would be decisive for disposal of these appeals and in reaching a conclusion as to whether a prima facie offence is made out or not. It is not permissible to travel into the

evidentiary realm or to consider other material.

16. On the above test, the contents of the First Information Report disclose a prima facie case. It is argued that the contents of FIR if taken at its face value do not indicate that the words used fall within the purview of section 3(1)(r) or 3(1)(s) of the SC & ST (POA) Act, 1989 as they do not indicate that the appellants have any intention to insult or humiliate the respondent No.2.

17. The intention can be inferred from the surrounding circumstances and appellants claim that they are journalists (though police station Sardarpur, Dhar has reported that they are not recognized in M.P) and they publish news in Dainik Sach Media newspaper published from Jodhpur dated 26.03.2025. The news article was published with the reference of appellant Mahesh Kumawat in which respondent No.2 was described as "Chindi Chor." The word "Chindi Chor" if translated means "petty thief" or "myserly thief." Accordingly, the intention of humiliation or insult of respondent No.2 is inferred and the contents of the First Information Report are not such that the test of prima facie case is not satisfied. Road was certainly a place within public view. Appellants do not belong to SC or ST category. Respondent No.2 has filed the complaint disclosing her caste that falls within the Scheduled Caste category and the caste of appellants that certainly

does not fall within the purview of SC or ST category. Accordingly, the trial court has properly recorded the finding that this is a case where the bar under section 18 of the SC & ST (POA) Act, 1989 applies and that finding is proper and the appellants do not succeed on the strength of **Gorige Pentaiah (supra), Asmathunnisa (supra)** and **Ummed Singh (supra).** Accordingly, both the appeals are dismissed.

(GAJENDRA SINGH)
JUDGE

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