IN THE COURT OF SH. SAURABH PARTAP SINGH LALER
ADDITIONAL SESSIONS JUDGE-03/SPECIAL JUDGE SC/ST (POA) ACT
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW DELHI

Bail Matter No. 2256/2026
State Vs. Swatantra Bhardwaj
FIR No. 62/2026 dated 23.06.2026, P.S. Parliament Street
U/s 115(2)/126(2)/351(3) R/w 3(5) BNS and
Sections 3(1)(r)/3(1)(s)/3(2)(va) of SC/ST (POA) Act, 1989

15.09.2026

Present: Mr. Santosh Kumar, Ld. Substitue Addl. PP for the State.
Mr. Umesh Sharma, Ms. Chhaya Sharma, Mr. Neeraj Chauhan, Mr. Nishant Choudhary and Mr. Naveen Sharma, Ld. Counsels for the applicant/accused (NP).
Ms. Swati Khanna, Mr. Mohd. Yasin, Mr. Omar Hoda, Mr. Rishabh Ranjan, Ms. Ayesha Khan, Mr. Rishabh Singh, Ld. Counsels for the complainant (NP).
IO ACP Mahesh Meena, DIU/New Delhi District (NP).

ORDER

A) PRELIMINARIES

1. The applicant-accused Swatantra Bhardwaj, son of Sh. Ranjit Kumar Jha, has moved his first application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"). He seeks regular bail in FIR No. 62/2026 dated 23.06.2026, registered at Police Station Parliament Street, New Delhi. The offences alleged are punishable under Sections 115(2), 126(2) and 351(3), read with Section 3(5), of the Bharatiya Nyaya Sanhita, 2023 ("BNS"), and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention

of Atrocities) Act, 1989 ("the Act"). The applicant has been in judicial custody since 04.09.2026 according to the application, and since 05.09.2026 according to the reply of the Investigating Officer.

2. The State has filed a reply dated 14.09.2026 under the signature of ACP Mahesh Meena, DIU/New Delhi District. The complainant has filed a separate reply of the same date, annexing screenshots of messages said to have been received by him and his minor daughter. The following further material has been placed on record: a copy of FIR No. 91/2026, P.S. Parliament Street; the order dated 23.08.2024 in Bail Application No. 749/2024; the order dated 07.09.2026 of the Hon'ble High Court of Delhi in W.P.(CRL) 2750/2026; the record of proceedings dated 01.09.2026 of the Hon'ble Supreme Court in W.P.(Crl.) No. 280/2026; and the judgment in **Zeba Khan v. State of U.P., 2026 SCC OnLine SC 188**.

3. The complainant has been given notice of these proceedings and heard through counsel, as Section 15A(3) and (5) of the Act require. In the course of arguments, both sides also played video clips and social media content before the Court and relied on them.

B) <u>GOVERNING PRINCIPLES</u>

1. An accused is presumed innocent, and bail is not to be withheld as a form of punishment before conviction (**Dataram Singh v. State of U.P., (2018) 3 SCC 22**). At this stage, the Court does not undertake a meticulous appraisal of the evidence; its task is to decide whether continued custody is necessary. The factors that guide that decision are well settled (**Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240**; **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496**). They include whether a prima facie case exists; the nature and gravity of the accusation and the severity of the punishment; the antecedents of

the accused; the likelihood of his absconding or repeating the offence; and the reasonable apprehension that witnesses may be influenced or justice thwarted. Pre-trial detention must ultimately be justified against three risks: flight, tampering with evidence, and influencing witnesses (**Satender Kumar Antil v. CBI, (2022) 10 SCC 51**).

2. The Act of 1989 does not impose any twin-condition bar on regular bail. Section 18 excludes only anticipatory bail. What the Act does, through Section 15A, is give the victim enforceable rights at the bail stage, and place on the State, and on the Special Court, a positive duty to protect victims and witnesses against intimidation, coercion and threats. A bail application under the Act therefore requires the Court to strike a balance. On one side is the personal liberty of an undertrial, guaranteed by Article 21 of the Constitution. On the other is the statutory assurance of safety given to a victim belonging to a Scheduled Caste/Scheduled Tribes.

C) **THE CASE OF THE PROSECUTION**

1. According to the FIR, the complainant went to the Jantar Mantar protest site on 23.06.2026 with his daughter and a friend to take part in a protest. At about 05:30 PM, a young man objected to the complainant recording a video, and an altercation followed. It is alleged that this person and two or three associates surrounded the complainant, abused him and struck him with fists and a hard iron object resembling a *kada*, injuring his head. Police personnel present at the spot apprehended two of them, who were identified as the applicant and co-accused Suraj Kumar. MLC No. 156190/2026 of Dr. RML Hospital records two lacerated wounds, one over the right frontal region and one over the left parietal region. The FIR was registered only under Sections 115(2), 126(2) and 3(5) BNS (Bailable Offences).

2. The applicant was not arrested at that stage. The IO's reply records that the applicant joined the investigation on 14.07.2026 in response to a notice under Section 35(3) BNSS, and produced the *kada*, which was seized. The injury was later opined to be simple, and a subsequent opinion states that it could have been caused by the seized *kada*.

3. The investigation changed course on 04.09.2026. On that date, the complainant made a supplementary statement under Section 180 BNSS. He stated that he belongs to a Scheduled Caste, produced his caste certificate, and alleged that the applicant had used caste-based derogatory remarks. He further alleged that objectionable remarks and threats had since been directed at him and his family through social media. He produced a written complaint and a Geonix 8-GB pen drive containing a YouTube podcast, both of which were seized. **On this material, Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Act and Section 351(3) BNS were added**. On the same day, FIR No. 91/2026 was registered at the complainant's instance on behalf of his minor daughter, under Sections 78, 79 and 351(3) BNS, Section 12 of the POCSO Act, 2012, and Section 67B of the Information Technology Act, 2000.

4. The applicant was thereafter arrested by ARC, Crime Branch, Shakarpur, vide DD No. 56A dated 05.09.2026, and was formally arrested in this case with the Court's permission. Police custody for one day was obtained to recover his mobile phone and trace his associates. The IO states that the applicant gave no satisfactory information on either count. He was remanded to judicial custody on 06.09.2026, and on 07.09.2026 this Court extended his judicial custody by fourteen days. On request, Medical Board was constituted to give fresh opinion on the nature of injury and the said opinion of Medical Board on the nature of the injury is still awaited.

5. The accusation against the applicant therefore has three strands. **First**, he is said to have started the altercation and assaulted the complainant with fists and a *kada*, causing simple injuries. **Second**, he is said to have uttered caste-based insults at the complainant and his minor daughter at the time of the incident, an allegation that for the first time appears in the supplementary statement of 04.09.2026. **Third**, he is said to have made threats and objectionable remarks on social media afterwards, including a podcast in which he allegedly admitted the assault and referred to Section 307 IPC.

D) **SUBMISSIONS ON BEHALF OF THE APPLICANT**

1. Ld. Counsel for the applicant submitted that the applicant has been falsely implicated and that the complainant was in fact the aggressor. He relied on video recordings, the links to which are given in the application, in which the complainant is said to be seen and heard admitting that he assaulted the applicant (The said video was played by Ld. Counsel in the court).

2. Ld. Counsel then challenged the legality of the arrest and the remand. He submitted that the applicant was picked up from Bulandshahr, Uttar Pradesh, outside the jurisdiction of the Delhi Police, and was brought to Delhi without being produced before the nearest Magistrate for transit remand, in breach of Section 58 BNSS and Article 22(2) of the Constitution. He further submitted that the applicant was held in unrecorded custody until he was produced through video conference. He also submitted that on 05.09.2026 the applicant was produced at the residence of Judicial Officer while his counsel waited at the Patiala House Court complex. According to Ld. Counsel, this denied the applicant his right to be defended under Section 340 BNSS and Article 22(1).

3. On merits, Ld. Counsel argued that the altercation, even if taken at face value, arose from student politics. He submitted that there is no material to show that the act was committed because the complainant belongs to a Scheduled Caste, and that Section 3(2)(va) of the Act is therefore not attracted. He also contended orally that the videos relied upon against the applicant are AI-generated or morphed, and that their authenticity remains under investigation.

4. Ld. Counsel lastly submitted that the applicant is a student living in Delhi, whose family has permanent roots in Bihar, and that he poses no flight risk. He argued that the evidence is documentary or electronic and is already in the custody of the State, so there is no occasion for tampering or influencing witnesses. The applicant, he said, is willing to furnish sureties and to abide by any condition the Court may impose.

E) **SUBMISSIONS ON BEHALF OF THE STATE AND COMPLAINANT**

1. Ld. Addl. PP opposed the application on the grounds set out in the reply. He submitted that the applicant has no permanent residence in Delhi, so there is a risk that his presence cannot be secured. He submitted that the applicant has allegedly been threatening the complainant and his family, and has made objectionable and caste-related remarks against the complainant and his daughter on social media. He pointed out that in a YouTube podcast the applicant is said to have accepted his role in the assault with the *kada* and to have referred to Section 307 IPC, and that FIR No. 91/2026 has since been registered. He further submitted that the applicant has not disclosed the whereabouts of his mobile phone or the correct particulars of his associates; that his digital devices are yet to be recovered; and that the authenticity, source and contents of the podcast are still being verified. On these grounds, he apprehended that

the applicant, if released, may abscond, intimidate the complainant or witnesses, or tamper with the evidence.

2. Ld. Counsel for the complainant supported the State's opposition. She submitted that the Hon'ble High Court dismissed the habeas corpus petition on 07.09.2026, and that the plea of illegal arrest is therefore no longer open to the applicant. She submitted that the applicant publicly used a casteist slur against the complainant and his minor daughter on the day of the incident. She characterised his public podcast as an extra-judicial admission and said that in it he also threatened the minor daughter. She further submitted that, besides FIR No. 91/2026, the applicant is involved in FIR No. 74/2024, P.S. Parliament Street and FIR No. 403/2024, P.S. Shastri Park, and that he suppressed these cases in his affidavit contrary to the mandate of **Zeba Khan**. Finally, she submitted that since the FIR was registered, and particularly since the arrest, the complainant and his minor daughter have been receiving death threats and threats of sexual violence, and she relied on the screenshots annexed to the reply.

F) DISCUSSION

1. The challenge to the arrest

As far as challenge to arrest is concerned, the arrest of accused came up for consideration before Hon'ble High Court in habeas corpus petition, which was disposed of vide order dated 07.09.2026.

2. The nature of the accusation: a prima facie view

I. The case started with offences under Sections 115(2) and 126(2) BNS. These are bailable, and they carry a maximum punishment of one year and one month respectively. For more than two months, the investigating agency did not consider the applicant's arrest necessary. It proceeded by notice under Section 35(3) BNSS, which

he complied with, and he produced the alleged weapon. The injury has been opined to be simple. The occurrence took place in the presence of police personnel, who apprehended the applicant at the spot. The weapon attributed to him is a *kada* worn on the wrist, not an iron rod or any similar weapon capable of graver harm. It follows that the applicant is not in custody for causing simple hurt or for wrongful restraint. **His arrest is the consequence of the supplementary statement of 04.09.2026, which brought in offences under the Act of 1989 together with Section 351(3) BNS, carrying a maximum punishment of seven years.**

II. Sections 3(1)(r) and 3(1)(s) of the Act of 1989 require, among other ingredients, that the insult, intimidation or abuse by caste name take place "in any place within public view". Section 3(2)(va) applies where a scheduled offence is committed "knowing that" the victim is a member of a Scheduled Caste or a Scheduled Tribe. The applicant's submission, that the act must have been committed primarily because of the complainant's caste, rests on a formulation that the text of Section 3(2)(va) does not bear. Whether the requisite knowledge and the other ingredients are established is, however, a matter for evidence at trial.

III. It is equally significant that the allegation of caste-based insult, although attributed to the very start of the occurrence, finds no mention in the complaint on which the FIR was registered. It surfaced for the first time about ten weeks later. A belated allegation is not, for that reason alone, false; nor can this Court decide its truth at the threshold. It is nonetheless a circumstance that bears on the weight to be given to the accusation for the limited purpose of bail. Whether the delay is satisfactorily explained, whether the words were uttered at all, and which party was the aggressor, as each side

urges on the strength of its own videos, are all questions reserved for trial. Nothing in this order is to be understood as an expression of opinion on them.

3. **Conduct after the incident, social media and the safety of the victim**

I. What weighs with the Court more is the applicant's conduct in the weeks that followed. Both sides placed podcasts and social media videos before the Court. Material of this kind must be assessed by its tenor and demeanour, not merely by a recital of its words. Subject to the forensic verification of authenticity, the Court's tentative impression is that the material reflects a tendency to boast about the incident rather than any remorse for it.

II. In today's era, intimidation of a victim no longer requires physical proximity. A public boast about an assault, broadcast to an online audience, reaches the victim and the witnesses as surely as a threat delivered at their doorstep, and often with greater reach and permanence. Social media has thus become a new medium of intimidation. The abusive and sexually explicit messages sent from several numbers to the complainant and his minor daughter are not, on the present record, traceable to the applicant, and the Court draws no inference against him from them. They do, however, illustrate how public commentary on a pending case can let loose hostility against a victim and her family. The duty of protection under Section 15A of the Act therefore cannot be discharged merely by keeping the accused physically away from the victim. It extends to what is being said publicly about the case. It must also be said that energy spent in pursuit of instant visibility on social media would be far better directed towards sustained effort and the development of the nation.

III. At this stage, the Court would like to point out that freedom of speech under Article 19(1)(a) is not absolute. It is subject to reasonable restrictions under Article 19(2), which include restrictions in relation to contempt of court, defamation and incitement to an offence. The freedom does not extend to using public platforms to overawe a victim or to try a pending case before the public. A condition that restrains the applicant from commenting publicly on the subject matter of this case bears a direct connection to the protection of the victim and the integrity of the proceedings. It is proportionate to that object, and it is not a general restraint on lawful expression.

4. **Antecedents and the duty of candid disclosure**

I. The affidavit discloses only FIR No. 403/2024, P.S. Shastri Park, in which he was admitted to bail on 23.08.2024 by the Ld. ASJ-02 (North-East), Karkardooma Courts. FIR No. 91/2026 is not disclosed at all, although the applicant was plainly aware of it, having sought its copy before the Hon'ble High Court. As to FIR No. 74/2024, P.S. Parliament Street, which the complainant mentions, no document has been produced and the reply of the IO is silent. The disclosure mandated by **Zeba Khan** is intended to ensure that discretionary relief is not obtained on an incomplete picture. It is not a formality, and the applicant's incomplete disclosure is deprecated.

II. The involvements have nonetheless been brought before the Court by the complainant and have been duly considered. In the earlier case of PS Shastri Park, the applicant is already on bail. FIR No. 91/2026 is recent, and arises out of the same circumstances and at the instance of the same complainant. Antecedents are a significant consideration, but they do not by themselves disentitle an accused to

bail **[Ash Mohammad Vs. Shiv Raj Singh (2012 Supreme Court)]**. In the said judgment, Hon'ble Apex Court calls for circumspection, rather than refusal. That circumspection is heightened by the fact that this is not the applicant's first time in custody. He was admitted to bail two years ago, and the present incident has nevertheless followed.

5. **The necessity of continued custody**

I. The accusation falls within the class of offences punishable with imprisonment of up to seven years. For such offences, the law treats arrest as the exception and requires its necessity to be justified (**Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273.** The applicant's custodial interrogation has already taken place. The only instances of non-cooperation cited are the non-disclosure of his mobile phone and of his associates' particulars, and these can adequately be addressed by a condition requiring him to join and cooperate with the investigation. Much of the electronic material relied upon has already been seized. An apprehension of flight or tampering must rest on material, not on conjecture (*P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791). The absence of a permanent address in Delhi is a matter that can be met by suitable conditions.

II. The one apprehension that does find support in the record is the risk that the complainant and witnesses may be influenced. **That risk arises not from physical approach, but from the use of public platforms. It is a real concern, but it can be addressed by stringent, narrowly tailored conditions and a period of observation**. It does not call for indefinite detention of an undertrial.

6. **The state of the investigation**

I. The investigation, as disclosed in the reply, leaves significant ground uncovered. The podcast forms the central basis of the State's opposition, and its authenticity is disputed. Yet the reply does not state whether the person who manages the channel has been examined, whether the original footage has been requisitioned, or whether the electronic material has been sent for forensic examination. The reply is equally silent on several other matters: CCTV footage of the protest site; any recording made by Delhi Police personnel deployed at the gathering; the applicant's call detail records and location data; information from the social media service providers; the statements of the complainant's companions and of the police personnel who apprehended the accused; and the present position of co-accused Suraj Kumar.

II. These are elementary steps in an investigation of this nature, and they ought to have been taken by now. The consequence of such deficiencies is not that the applicant should remain in custody until they are cured. It is that the investigating agency must be directed to proceed with purpose and dispatch. Specific directions to that effect need to be issued.

G) **CONCLUSION**

1. Just yesterday, I came across a news item in Times of India *"Murder accused takes out victory march after bail, SC tells Haryana cops to produce him in court"*, which states that the Hon'ble Supreme Court has required the production of an accused who was seen celebrating after being admitted to bail in a murder case. Public displays of that kind, whether on the street or on social media, do not augur well for society or for law and order, and they erode public's confidence in the

administration of justice. Bail is an expression of the Court's trust, and it is not a trophy to be displayed.

2. Weighing all the circumstances, the Court takes into account that the applicant has been in custody for a little over ten days, a period that should have afforded him time for reflection. His custodial interrogation is complete, and the offences carry a maximum sentence of seven years. The principal concern is the safety of the complainant and his minor daughter, which can be secured by appropriate conditions.

3. In the considered view of this Court, the duty under the Act to protect the victim and the duty under Article 21 to safeguard personal liberty are best reconciled by releasing the applicant on interim bail for three weeks on stringent conditions. **His conduct during that period will be observed, and his prayer for regular bail will then be considered in its light. Whatever is to be decided about the incident of 23.06.2026 must be decided in a court of law, on evidence, and not in public or on social media.**

H) ORDER

1. **Interim bail**

The applicant-accused Swatantra Bhardwaj is accordingly admitted to **interim bail for a three weeks** subject to furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount, to the satisfaction of this Court or the Ld. Duty Magistrate. The interim bail is subject to the following conditions:

I. The applicant shall not make, publish, post, upload or share any statement, comment, video, podcast, interview, reel or post concerning the facts of this case or of FIR No. 91/2026, his defence, or the complainant and his family, on social media, in the electronic or print media, or on any other public platform. He shall not have

conversation in this regard with anyone from electronic/print media or social media.

II. The applicant shall not, directly or indirectly, contact the complainant, his minor daughter, any member of his family, or any prosecution witness, including by telephone or by electronic means. He shall not threaten, induce or influence any of them in any manner.

III. The applicant shall not tamper with any evidence, including any electronic record or social media content connected with this case.

IV. The applicant shall join the investigation whenever required by the IO on prior notice, and shall cooperate fully, including in the verification of electronic material and the recovery of his mobile phone.

V. The applicant shall furnish his Delhi address, his permanent address and his mobile number to the IO and to this Court. He shall keep that mobile number switched on and reachable, and shall not change it without informing the IO.

VI. The applicant shall not leave the country without the prior permission of this Court.

VII. The applicant shall not misuse this bail in order to commit any other offence.

VIII. The applicant shall surrender upon expiry of the interim bail so granted.

2. **Let the application be listed on 06.10.2026 for consideration on grant/dismissal of regular bail/extension of interim bail. The IO shall file report on 06.10.2026 as regards any violation of bail conditions. The Ld. Counsel for the complainant may also apprise the Court on the next date as regards violation of any bail condition.**

3. **Directions to the investigating agency**

I. Being a Special Court under the Act of 1989, the investigating agency is directed to conduct the investigation expeditiously. Without prejudice to the discretion of the IO to take any other step permissible in law, he shall in particular:

(a) collect and preserve CCTV footage of the Jantar Mantar protest site, particularly at or around the place of incident for 23.06.2026, from all available government and private sources;

(b) collect the video recordings, photographs and surveillance material, if any, made by Delhi Police personnel deployed to monitor the gathering, including any recordings made to identify persons with past antecedents, and in particular the footage of the incident;

(c) obtain and analyse the call detail records and tower location data of the mobile number(s) used by the applicant, from date of commencement of the protest until the date of his arrest.

(d) requisition from the service providers of the social media platforms concerned (including the channel on which the podcast is hosted and the handles through which it was circulated): subscriber and account details, upload logs, IP addresses and original files. It shall also seek preservation of that data pending investigation;

(e) examine the person who manages or operates that channel, and establish the source, date and circumstances of the recording;

(f) send the pen drive, the podcast, and the videos relied upon by both sides, for forensic examination, to determine whether they are genuine or have been morphed or artificially generated, and

obtain certification as required under Bharatiya Sakshya Adhiniyam, 2023 wherever required;

(g) obtain subscriber details of the numbers from which the threatening messages shown in the complainant's screenshots were sent, identify the persons responsible, and ascertain whether any of them is connected with the applicant;

(h) report the present status of co-accused Suraj Kumar and the steps taken to identify the remaining associates; and

(i) follow up on the opinion of the Medical Board.

II. On the next date of hearing, the IO shall file a status report addressing each of the above points. As stated earlier, the report shall also cover the conduct of the applicant during the period of interim bail, including any social media activity attributable to him, and the action taken on the threats reported by the complainant and his minor daughter.

4. The complainant and the IO are at liberty to bring any breach of the above conditions to the notice of this Court immediately, without waiting for the next date, so that the interim bail may be reviewed or recalled. The application for regular bail shall remain pending, and shall be considered on the next date in the light of the applicant's conduct and the status report.

5. The observations made in this order are confined to the disposal of the present application. They shall not be construed as an expression of opinion on the merits of the case, and the Court conducting trial shall not be influenced by them.

6. **Put up for further consideration on 06.10.2026.**

7. Copy of this order be given dasti to Ld. Counsel for applicant/accused person and in compliance of Sanjay Singh Vs. State (Govt. of NCT of Delhi), Writ Petition Criminal no. 974/22, copy be also sent to the concerned Jail Superintendent for communication to the inmate through FASTER (Fast and Secured Transmission of Electronics Record) in terms of Circular dated 07.07.2022 issued by Hon'ble High Court of Delhi.

8. Copies be also given to the IO, to the SHO, P.S. Parliament Street, and to Ld. Counsel for the complainant.

SAURABH PARTAP SINGH LALER

Digitally signed by SAURABH PARTAP SINGH LALER
Date: 2026.09.15 16:52:54 +0530

(Saurabh Partap Singh Laler)
ASJ-03/Special Judge SC/ST (POA) Act
NDD/PHC/New Delhi
15.09.2026