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CRA-3371-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 8<sup>th</sup> OF APRIL, 2025CRIMINAL APPEAL No. 3371 of 2025*KAYYAM KHAN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Abhishek Tugnawat - advocate for the appellant.

Shri Virendra Khadav appearing on behalf of Advocate General.

Shri Mohammad Zeeshan Khan, learned counsel for the respondent

[OBJ].  
.....

ORDER

The present appeal filed by the appellant under section 14-A(2) of the SC/ST (Prevention of Atrocities) Act, 1989 for grant of anticipatory bail in connection with Crime No.67/2025, registered at Police Station-Sadalpur District-Dhar (MP) for the offence under Sections 420, 467, 468, 471 of IPC, 1860 and Section 3(2)(f), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) Act 1989 (hereinafter referred as "the Act").

2. This appeal has been filed against the order dated 24.03.2025, passed by Special Judge SC/ST(PA), Dhar, whereby learned Special Judge rejected the bail application of appellant with finding that there is *prima facie* case against the appellant punishable under the offences.



3. Learned counsel for the appellant submitted that the appellant is innocent and has falsely been implicated in the case. As per prosecution, the appellant has purchased the land bearing survey no.157/2/1 paiki area 0.014 hectare by registered sale deed from Sajan i.e. father of the complainant Ms. Rachna. The allegations against the appellant is only that he has managed some other person before the Registrar at the time of registration of sale deed who impersonating himself as father of the complainant, has signed the sale deed whereas his father has never signed the said sale deed. Hence, it is alleged that the sale deed is forged and fabricated. Based on the said registered sale deed, the name of the appellant is mutated in the revenue records and father of the complainant has never raised any objection or not made any complaint in this regard to any authority. Further, the complainant has filed a suit for cancellation of the said sale deed before the learned trial Court and the same was dismissed by learned trial Court and bothering by the dismissal of the suit of complainant, the complainant has lodged a false complaint against the appellant. It is further submitted that the appellant is aged about 70 years old and if the applicant is arrested, his image will be tarnished. It is alleged that registered deed was executed by another person and the cheating and forgery by impersonation was committed by present appellant. Hence, counsel for appellant requested for anticipatory bail.

4. Learned counsel for the State as well as complainant have opposed the appeal and submitted that since this is an anticipatory bail under Section SC/ST (POA) Act, hence, it is not maintainable under the provisions of Sections 18 and 18-A of the SC/ST (POA) Act and therefore, the appeal



should be rejected on the basis of maintainability.

5. In reply, counsel for the appellant relied upon the judgment passed by Hon'ble Supreme Court in the case of **Dr. Subhash Kashinath Mahajan vs. State of Maharashtra**, reported in (2018)6 SCC 454 in support of his submissions. It is submitted that there is nothing on record by which it can be assumed that the offence was committed and only because the complainant is belonging to scheduled castes and scheduled tribes, the *prima facie* case cannot be made out. Further, he placed reliance over the judgment of Hon'ble Apex Court in the case of **B. Venkateshwaran vs. P. Barkthavatchalam** [(2023) 11 SCC 182] wherein it has been held that *"it seems that the private dispute between the parties is converted into criminal proceedings. Initiation of the criminal Proceedings for the offence under Sections 3(2)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore, is nothing but an abuse of process of law and Court."* Another judgment of Hon'ble Apex Court in the case of **V.M. Shah vs. State of Maharashtra and Another** [(1995) 5 SCC 767] is relied upon wherein it has been held that *the Judgment of Criminal Court is superseded by Judgement of Civil Court*. Counsel for the appellant has further vehemently relied upon the judgment of Hon'ble Apex Court in the case of **Shajan Skaria vs. State of Kerala and Anr.** passed in Criminal Appeal No.2622/2024 wherein the Hon'ble Apex Court has granted anticipatory bail to the appellant therein by considering the statutory constructions of Section 18 of the *SC/ST (P.A.) Act, 1989*.

6. Before considering rival submissions of both the parties, the



provision of Section 18 and 18-A of the Act is worth to refer here.

*" 18. Section 438 of the Code not to apply to persons committing an offence under the Act.—Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.*

*18-A No enquiry or approval required (1) For the purposes of this Act,—(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or (b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.*

*.(2). The provision of Section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court. "*

7. The learned counsel for appellant has emphatically placed his reliance on **Dr. Subhash Kashinath Mahajan (supra)** and **B. Venkateshwaran (supra)**. However, it emerged that actually Section 18-A of the Act has been enacted only to nullify the judgment of **Dr. Subhash Kashinath Mahajan (supra)**.

8. On this aspect, the Hon'ble Apex Court, at the initial excerpt of para No. 2 of the case of **Prathvi Raj Chauhan vs. Union of India**, reported in



2020 2 SCC Online SC 159 has observed as under:-

*"2. It is submitted that Section 18-A has been enacted to nullify the judgment of this Court in Subhash (supra) in which the following directions were issued.."*

9. On this aspect, in **Prithviraj Chauhan (supra)**, the Hon'ble Apex Court after considering the law laid down in the case of **Shakuntala Devi Vs. Baljinder Singh (2014) 15 SCC 521**, **Dr. Subhash Kashinath Mahajan (supra)** viewed as under:-

*" 9. The section 18A(i) was inserted owing to the decision of this Court in [Dr. Subhash Kashinath](#) (supra), which made it necessary to obtain the approval of the appointing authority concerning a public servant and the SSP in the case of arrest of accused persons. This Court has also recalled that direction on Review Petition (Crl.) No.228 of 2018 decided on 1.10.2019. Thus, the provisions which have been made in section 18A are rendered of academic use as they were enacted to take care of mandate issued in [Dr. Subhash Kashinath](#) (supra) which no more prevails. The provisions were already in [section 18](#) of the Act with respect to anticipatory bail.*

*10. Concerning the applicability of provisions of [section 438](#) Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of*



*1989, the bar created by section 18 and 18A (i) shall not apply. We have clarified this aspect while deciding the review petitions.*

*11. The court can, in exceptional cases, exercise power under [section 482 Cr.PC](#) for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised.*

*12. The challenge to the provisions has been rendered academic. In view of the aforesaid clarifications, we dispose of the petitions."*

10. In view of the aforesaid law laid down by the Hon'ble Apex Court in **Prathviraj Chohan( Supra)**, it is clearly evinced that only in those cases where the prima facie case is not made out, the rigour of Section 18 and 18-A of the Act can be eschewed. In view of that, the matter has been pondered. As per the FIR and the statements of complainant party, at this stage, this Court is of the considered opinion that there is no reasonable ground to reach at the conclusion that no *prima facie* case against the appellant is made out. As per the available record, the sale deed was executed in favour of the appellant himself, as alleged by impersonating the father of complainant by another person who was managed by the appellant, it cannot be said that no *prima facie* case, is made out against the appellant.

11. So far as the authorities cited by counsel for the appellant in the case of **B. Venkateswaran (supra)** is concerned, the Hon'ble Apex Court has



quashed the charges under Sections 3(2)(v) and (va) of SC/ST (P.A) Act and in the case of **V.H. Shah (supra)**, the citation has been cited for procedural enactment of Civil and Criminal cases and the law in the case of **Shajan Skaria (supra)** is concerned, certainly, the Hon'ble Apex Court has granted anticipatory bail to the appellant therein, but the acts of the appellants in the case at hand and in the case of **Shajan Skaria (supra)** were different. Hence, no benefit to the appellant can be afforded on the basis of aforesaid judgments and the same are distinguished on law and facts both.

12. In view of the aforesaid deliberations, since, there is a *prima facie* case under Sections 420, 467, 468, 471 of IPC, 1860 and Section 3(2)(f), 3(2)(v) of SC/ST (POA) Act 1989. against the appellant is available, then the anticipatory bail cannot be granted to the appellant. Hence, the finding of learned Trial Court is affirmed and the appeal is hereby **dismissed**.

13. It is directed that the learned Trial Court should not be influenced by the observation of this Court passed in this appeal while passing any order/judgment in future.

(PREM NARAYAN SINGH)  
JUDGE

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