



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (FOR ANTICIPATORY BAIL) NO. 1225 of 2026

ALPESHBHAI ARVINDBHAI PADARIYA

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR DEVANSHI KAKKAD for MR MOHD. SHAHRUKH M SAIYAD (11014) for the Appellant(s) No. 1

NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2

MS VRUNDA SHAH, APP for the Opponent(s)/Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 05/08/2026

JUDGMENT

Though served, respondent No.2 has chosen not to appear before this Court.

[1.0] **ADMIT.** Learned APP waives service of notice of Rule on behalf of respondent No.1 – State of Gujarat.

[2.0] Present appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") challenging the order dated 21.05.2026 passed by the learned Special Judge (Atrocity), Narmada, at Rajpipla in Criminal Misc. Application No.192 of 2026 whereby the learned Special Judge rejected the application filed by the present appellant under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking anticipatory bail in connection with FIR being **C.R. No.11823017260640 of 2026** registered with **Rajpipla Police Station, District Narmada** for the offences punishable under Sections 121(1) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (For short "BNS") and section 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention

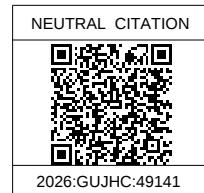


Atrocities) Act.

[3.0] Learned advocate for the appellant submitted that the appellant has been falsely involved in the offence. As nothing is required to be recovered or discovered, no custodial interrogation is required. Therefore, looking to the role of the appellant and nature of the allegations, the appellant is required to be granted anticipatory bail by imposing suitable terms and conditions.

[4.0] *Per contra*, learned APP appearing for the respondent – State has opposed the present appeal on the ground that offence is serious in nature. Nonetheless, conduct of present appellant also deserves consideration. The allegation is that when the complainant, who belongs to Scheduled Caste was in his office serving as Junior Telecom Officer at BSNL, at that time the present appellant came to the office and asked as to why his private internet services were stopped and thereafter lifted the ceramic cup lying on the table of the complainant and administered threat to the complainant and assaulted the said ceramic cup on the head of the complainant and also allegedly hurled castiest abuses to the complainant and therefore also, if the appellant is granted anticipatory bail then the possibility of tampering with the evidence cannot be ruled out. Further, there is bar under Section 18 of the Atrocity Act and therefore also, the present offence being serious one, she has requested to dismiss the present appeal.

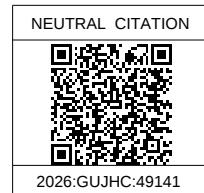
[5.0] Having heard the learned advocate for the parties and perusing the investigation papers, it is equally incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of the Hon'ble Apex Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an



application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided.

[6.0] Perusing the FIR it appears that when the complainant, who belongs to Scheduled Caste was in his office serving as Junior Telecom Officer at BSNL, at that time the present appellant came to the office and asked as to why his private internet services were stopped and thereafter lifted the ceramic cup lying on the table of the complainant and administered threat to the complainant and assaulted the said ceramic cup on the head of the complainant and also allegedly hurled castiest abuses to the complainant. In this regard the FIR is filed belatedly after 3 days for the offence dated 11.05.2026.

[6.1] Further, there is no evidence collected which would suggest that the appellant has insulted or humiliated the complainant or hurled abusive language in any public view. Merely because the complainant belongs to Scheduled Caste is not enough to invoke section 3(2)(va) of the Atrocity Act against the appellant. Even considering the decision of the Hon'ble Supreme Court in the case of **Hitesh Verma vs. State of Uttarakhan** reported in **(2020) 10 SCC 710** as well as in the case of **Shajan Skaria vs. State of Kerala** reported in **2024 SCC OnLine (SC) 2249**, there is no bar under Section 18 of the Atrocity Act on anticipatory



bail unless *prima facie* offence is made out. Further, considering the nature of allegations and in view of the law laid down by the Hon'ble Apex Court in the case of **Prathvi Raj Chauhan vs. Union of India** reported in **(2020) 4 SCC 727**, as the allegation is *prima facie* not made out and as the appellant is ready and willing to join the investigation, present appeal deserves consideration.

[7.0] I have also considered the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.** reported in **(2011) 1 SCC 6941**, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of **Shri Gurubaksh Singh Sibbia & Ors.** reported in **(1980) 2 SCC 665** and also the decision in the case of **Sushila Aggarwal v. State (NCT of Delhi)** reported in **(2020) 5 SCC 1**, I am inclined to allow the present appeal.

[8.0] Hence, the present appeal is allowed. The order dated 21.05.2026 passed by the learned Special Judge (Atrocity), Narmada, at Rajpipla in Criminal Misc. Application No.192 of 2026 is hereby quashed and set aside and the appellant is ordered to be released on anticipatory bail in the event of his **arrest/appearance** in connection with FIR being **C.R. No.11823017260640 of 2026** registered with **Rajpipla Police Station, District Narmada** on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the appellant shall;

- (a) shall cooperate with the investigation and make herself available for interrogation whenever required;
- (b) **shall remain present at the concerned Police Station on 12/08/2026 between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the applicant;**



- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week;
- (g) an order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigative agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail;
- (h) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(3) of the BNSS to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.-

[9.0] At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the applicant on bail.

[10.0] Appeal is allowed accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

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