

(2026) 03 MAD CK 0977

In the Madras High Court, Madurai Bench

Case No : Criminal Original Petition (MD) No. 23229 Of 2025

Siymili And Others

APPELLANT

Vs

State Of Tamil Nadu And Others

RESPONDENT

Date of Decision : 24-03-2026

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 269, 296(b), 351(3)
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(1)(r), 3(1)(s), 18, 18(A)
Code Of Criminal Procedure, 1973 — Section 41, 438

Citation : (2026) 03 MAD CK 0977

Hon'ble Judges : S.Srimathy, J

Bench : Single Bench

Advocate : T.Lenin Kumar. S.S.Manoj, S.Sathyachidambaram

Judgement

S.Srimathy, J

1. The petitioners, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 296(b), 351(3) of Bharatiya Nyaya Sanhita (BNS) 2023 and Sections 3(1)(r), 3(1)(s) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in Crime No.244 of 2025, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 09.12.2025, one Kalaiselvan, son of Thangavel, the 2nd respondent herein / defacto complainant had lodged a complaint before the respondent police stating that he belongs to Hindu Arunthathiar community. When the said Kalaiselvan and the 1st petitioner were working in a private concern at Coimbatore, they loved each other. Since the petitioners 2 & 3 did not accept the love, the defacto complainant married the 1st petitioner by exchanging garland in a temple at Namakkal on 27.10.2023. They lived happily for about 2 months. Out of wedlock, the 1st petitioner conceived a baby and at the advanced stage of pregnancy, the 1st petitioner went to her parental home for delivery. After delivery, the petitioners 2 & 3 did

not send the 1st petitioner and the child to the defacto complainant's house. When the complainant requested the petitioners 2 & 3 to send the 1st petitioner and the child, they abused him in filthy language and threatened him with dire consequences. After 6 months, the 1st petitioner lodged a complaint against the said Kalaiselvan on the allegation of cruelty and demand of dowry and the same is registered in Crime No.85 of 2023 by the All Women Police Station, Dindigul Rural, Dindigul and he had applied for anticipatory bail and the same was dismissed at the intervention of the 1st petitioner, Now, the petitioners are demanding the de-facto complainant Kalaiselvan to give Rs.25,00,000/-, failing which, they will foist false case against him.

3. The petitioners submit that the allegations levelled in the FIR are false and concocted one and stage managed. The petitioners 2 & 3 are parents of the petitioners 1 & 4. On 27.10.2023, the 1st petitioner got married to the defacto complainant. Even though the 1st petitioner and the defacto complainant belong to different community, the 1st petitioner due to love, married the defacto complainant. After few days of matrimonial life, the defacto complainant started to harass the 1st petitioner by demanding dowry. Even after delivery of the child, the defacto complainant Kalaiselvan harassed the 1st petitioner by demanding dowry. In this regard, she lodged a complaint before the All Women Police Station, Dindigul Rural, Dindigul and the same was registered in Crime No.85 of 2023. The petitioners submit that thereafter the 1st petitioner and the minor child filed D.V.O.P. before the Judicial Magistrate, Atur. As a counter blast, the defacto complainant lodged the present complaint. A plain reading of the FIR would makes it clear that the alleged occurrence took place in the year 2023, but the complaint has been lodged in the year 2025 after lapse of 2 years. The defacto complainant to wreak vengeance against the petitioners, took his community as a weapon and lodged the present complaint. The allegations levelled in the FIR would make it clear that no prima facie case made out against the petitioners. Even though Section 18 of the SC/ST Act is a bar to file anticipatory bail, this application is maintainable as no prima facie case is made out in the FIR. The Hon'ble Supreme Court in a judgment reported in 2020 (4) SCC held that when the prima facie is not made out under section 18 & 18(A) of the SC/ST Act, the accused can approach the High Court under section 438 of Cr.P.C. Hence the anticipatory bail application is maintainable and the petitioners / accused are seeking anticipatory bail.

4. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the offences committed by the petitioner are serious Crl.OP. (MD)Nos.23229 of 2025 in nature. Further submitted that the petitioner had committed offences under SC/ST Act, hence Anticipatory Bail application is not maintainable and the same cannot be granted.

5. Since the allegations against the petitioner is under SC/ST Act, then as per the Act notice ought to be issued to the defacto complainant. Hence notice was issued and the 2nd respondent had appeared through Counsel and had also filed

detailed counter and opposed the anticipatory bail application. In the counter it is stated that the anticipatory bail application is not maintainable since the allegations are under sections 3(1)(r) and 3(1)(s) of the Act and there is absolute bar. Further the petitioners are fully aware of the defacto complainant's caste status, after inter caste marriage, the petitioners developed hostility due to caste status. On several occasions the petitioners intentionally abused and insulted him by uttering caste name, calling him in derogatory caste slurs such as "Sakiliyan, Thendathagathavan" and other filthy expressions with clear intention of humiliating him in public view. The petitioners forcibly separated the defacto complainant from his minor child and prohibited him from seeing, meeting, touching or having any physical or emotional access to his own child solely based on the caste. If the defacto complainant attempted to see or touch the child the petitioners had threatened with dire consequences, which amount to humiliation, social boycott, domination and discrimination perpetrated with full knowledge of the caste of the defacto complainant. Hence the defacto complainant opposes the anticipatory bail application.

6. Heard Mr.T.Lenin Kumar, the Learned Counsel appearing for the petitioners, Mr.S.S.Manoj, the Learned Government Advocate (Crl.Side) appearing for the 1st respondent / prosecution and Mr.S. Sathyachidambaram, the Learned Counsel appearing for the 2nd respondent / defacto complainant and perused the records.

7. The primary contention is that the anticipatory bail is not maintainable. On the other hand, the Learned Counsel appearing for the petitioner submitted that there is no bar in granting anticipatory bail for the offence under SC/ST Act and he has relied on the Judgment in Shajan Skaria vs State of Kerala and Another reported in (2024 SCC Online SC 2249) para 30 is extracted hereunder:

"30. Taking note of the aforesaid, this Court in Dr.Subhash Kashinath Mahajan v. State of Maharashtra reported in (2018) 6 SCC 454. While quashing the proceedings instituted against the appellant, therein under the provisions of the Act, 1989 thought fit to issue the following directions:

"79.1.. Proceedings in the present case are clear abuse of process of court and are quashed.

79.2. There is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide.

79.3. In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the SSP which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinised by the Magistrate for permitting further detention.

79.4. To avoid false implication of an innocent, a preliminary enquiry may be

conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.

79.5. Any violation of Directions 79.3 and 79.4 will be actionable by way of disciplinary action as well as contempt.

79.6. The above directions are prospective."

8. The Learned Counsel appearing for the petitioners submitted that the above said judgment has held that prima facie if the FIR does not disclose the necessary ingredients to constitute the offence, then it ought to be construed that no offence is made out and then person is entitled to pre-arrest bail. But the Learned Counsel appearing for the respondents submitted that the prima facie case ought to be "in the first blush or in the first impression". At anticipatory bail stage the Court cannot elaborately go into the ingredients of the offence.

9. In the Shajan Skaria's the Hon'ble Supreme Court had framed the issue "whether Section 18 of the Act, 1989 imposes an absolute bar on the grant of anticipatory bail in cases registered under the said Act?" and had held that the same would dependent on whether there is prima facie case is made out or not. And the relevant portion is extracted hereunder:

"46. The aforesaid discussion indicates that the term 'arrest' appearing in the text of Section 18 of the Act, 1989 should be construed and understood in the larger context of the powers of police to effect an arrest and the restrictions imposed by the statute and the courts on the exercise of such power. Seen thus, it can be said that the bar under Section 18 of the Act, 1989 would apply only to those cases where prima facie materials exist pointing towards the commission of an offence under the Act, 1989. We say so because it is only when a prima facie case is made out that the pre-arrest requirements as stipulated under Section 41 of CrPC could be said to be satisfied."

From the above it is evident that there is no absolute bar and the same is dependent on the fact "whether prima facie the offence is made out". Therefore, the objection raised by the defacto complainant and the Government Advocate (Crl. Side) is rejected. Consequently, this Court is of the considered opinion that the Courts have power to consider pre-arrest bail even if case is filed under SC/ST Act.

10. In the present case it ought to be considered whether there is any prima facie case. The Learned Government Advocate relied on Kiran Vs Rajkumar Jivraj Jain and another reported in 2025 Live Law (SC) 869 wherein it is held that on reading the FIR if on first blush or by first impression it can be concluded that the offence is committed then bail cannot be granted. The Learned Counsel appearing for the petitioner submitted that the judgment rendered in Shajan Skaria stated supra had dealt with the phrase prima facie elaborately, wherein it is held as under:

"47. Prima facie is a Latin term that translates to "at first sight" or "based on first impression". The expression "where no prima facie materials exist warranting arrest in a complaint or FIR" should be understood as "when based on first impression, no offence is made out as shown in the FIR or the complaint". This means that when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist prima facie."

The Hon'ble Supreme Court further held that the only test that the Courts ought to apply while considering the pre-arrest bail is whether there is prima facie case is made out and the same ought to be seen whether the ingredients of the provisions are attracted.

11. In the present case the sections that are invoked against the petitioners is sections 3(1)(r) and 3(1)(s) of the SC/ST Act and the relevant provisions are extracted hereunder:

3. Punishments for offences atrocities. — 3[(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) ...

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

(t) ...

As far as the allegations in FIR is concerned that the defacto complainant was separated from the 1st petitioner and his minor child and prohibited the defacto complainant from seeing, meeting, touching or having any physical or emotional access to his own child solely based on the caste. On reading the allegation it is evident it is matrimonial dispute. Further the occurrence had happened inside the house and then the ingredient of "public view" may not be there. Therefore, this Court is of the considered view that the sections 3(1)(r), 3(1)(s) may not be attracted and the prima facie case under sections 3(1)(r), 3(1)(s) are not made out.

12. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

13. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on his appearance, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Trial of SC/ST Act cases, Dindigul, within a period of fifteen days from the date of receipt of a copy of this order and on further conditions that:

[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c]the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[d]the petitioners shall not abscond either during investigation or trial. [e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f]If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.