CGHC010382472026 2026:CGHC:47537

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2498 of 2026

- Amit Pandey @ Amit Kumar Pandey S/o Abhay Narayan Pandey Aged About 41 Years R/o House No. 21, Ramanujganj Road, Sanjay Park Ke Samne, Mahatma Gandhi Ward 20, Ambikapur, District - Surguja Chhattisgarh (Correct Name And Address As Per Adhar)

... Appellant

versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Kunkhuri, District - Jashpur Chhattisgarh

... Respondent

For Appellant	:	Mr. S.C. Verma, Senior Advocate assisted by Ms. Pooja Sahu, Advocate
For Respondent	:	Mr. Keshav Gupta, G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

18.11.2026

1. The appellant has preferred this Criminal Appeal under Section 14-A(2) of the SC/ST (Prevention of Atrocities) Act, 1989 for setting aside of order dated 21/09/2026 passed by learned Additional Sessions Judge (FTC), Jashpur acting for Special Sessions Judge, SC & ST (Prevention of Atrocities) Act, Jashpur (C.G.) and for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No. 168/2026, registered at Police

Station- Kunkhuri, District Jashpur (C.G.) for the offence punishable under Sections 196(1) and 353(2) of BNS and Sections 3(1)(u) and 3(2)(va) of the SC/ST Act, 1989.

2. The prosecution case, in brief, is that the complainant, namely Uttamdan (U.D.) Minj, a former MLA of the Kunkuri Constituency and the current District President of the District Congress Committee in Jashpur, who is a member of the Scheduled Tribe community, filed a written complaint on 17/06/2026 alleging that the present appellant made malicious statements against him and a political party via his Facebook account. Acting on the said complaint, the police conducted a preliminary inquiry, recorded the statements of the complainant and a witness named Sarwar Ali alias Pintu, and found the allegations to be true, and thus, registered the aforesaid offences against the appellant.

3. Mr. S.C. Verma, learned Senior Advocate appearing for the appellant would argue that the comments/statements made by the appellant through his facebook account were neither derogatory nor contemptuous and no such word pertaining to the caste of the complainant was used in those comments. He would submit that a false FIR was lodged with ulterior motive against the appellant, who is a journalist. Thus, the offences registered against the appellant are not at all made out. With regard to the presence of the complainant before this Court either in person or through virtual mode, learned senior counsel would submit that service of

notice upon the victim/complainant with specific date and place is required and his presence before this Court, either in person or through virtual mode, is not mandatory. In this regard, he has placed reliance on the judgment passed by the Allahabad High Court in the matter of **Ajeet Chaudhary v. State of U.P. and Another**[1]. He would contend that this judgment has been maintained by the Hon'ble Supreme Court in the matter of **Hariram Bhambhi v. Satyanarayan and Another**[2]. It is also argued by learned senior counsel that the remedy available to the complainant is to file a complaint case for defamation, thus, he would to allow this appeal.

4. On the other hand, Mr. Keshav Gupta, learned counsel for the respondent/State, would oppose and submit that the appellant and his associates published derogatory and caste related comments/statements against the complainant in social media through their facebook accounts and thus, a prima facie case is made out. He would further submit that as per Section 18 and 18A of the Act of 1989, anticipatory bail is barred, therefore, this appeal deserves to be rejected.

5. I have heard learned counsel for the parties and perused the case diary.

6. In the present case, notice was issued to the complainant vide

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1. **2021 SCC Online All 17**
2. **(2024) 20 SCC 748**

order dated 05/10/2026 through the concerned Superintendent of Police whereby complainant was informed to appear before this Court on 03/11/2026 either in person or through video conferencing from the concerned District Legal Services Authority (DLSA). On 03/11/2026, when the matter was taken up for hearing, it was informed that service of notice upon the complainant was reported to be awaited and therefore, the matter was adjourned. Today, when the matter is taken up for hearing, it has been informed that notice has duly been served upon the complainant on 02/11/2026, however, there is no representation from his side.

7. In **Ajeet Chaudhary** (supra), the High Court of Allahabad held that a victim's statutory right to notice and hearing under Section 15A of the SC/ST (Prevention of Atrocities) Act cannot override, and must be balanced against, the constitutional mandate of personal liberty of the accused under Article 21. The relevant paragraphs are reproduced hereunder:-

> **49**. Rights of victim and witnesses and provisions for grant of bail have merited special attention from the legislature in Section 15 of the Act. Section 15 (A) (3) and (5) being central to the controversy are reproduced hereunder:
>
> "(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act."
>
> "(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect

of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing."

50. Section 15 A (3) has two limbs: The first is the nomination of the agency to inform the victim about such proceedings under the Act before the Court. The second limb provides for "reasonable, accurate and timely notice" of any criminal proceedings including a bail application/bail appeal to the victim or his dependent. Section 15(A) 3 visualizes some elements of process of maturation of bail, for being placed before the Court. However, it does not disclose any time frame for the same.

56. Direct responsibility for service of bail notice upon the victim under the Act is upon the State. The Act does not contemplate sending of bail notice to the victim by the Court. At least not till the State fails in its duty to serve notice. Further, issuance of notice by the Court does not have added efficacy in these cases, since ultimately service upon victim is effected only by the State agencies.

57. The discussion shall now move to the second most critical aspect of the controversy. The time line during which the bail application matures, for being placed before the court for hearing. And the time period which will give "reasonable accurate and timely notice" to the victim.

58. While determining the aforesaid time line, the Court has to correlate and balance the mandate of statutory rights of the victim, with the imperative of constitutional liberties of the accused.

59. In the opinion of this Court, the time line suggested by the Sri Manish Goyal, learned Additional Advocate General upon specific instructions from the State Government seems to be reasonable and just. This time line implements the mandate of the statute and upholds the demands of constitutional liberties.

Though efforts can always be made to streamline functioning, improve the efficiency of the system.

60. Before finalizing the time line, another issue which was raised at the bar has to be adverted to.

61. In case State fails to serve notice upon the victim for various reasons, what would be the fate of the stipulated time line. The definition of victim under the Act is inclusive. The State is in possession of material details of the victim for service. Further State has the resources and the responsibility to serve notice. It is always open to the State to adopt different modes of service including publication in the newspapers.

62. Failure to serve notice of bail upon the victim, is failure of the State to perform its statutory function. The accused cannot be visited with penal consequences for the default of the State. The erring officials have to be proceeded against as per law. Placement of the bail application/bail appeal before the court cannot be deferred for non service of notice after the expiry of the time line stipulated below.

63. There is another aspect of the matter. A person may simply evade service in the certain knowledge that failure to serve shall defer the hearing of the bail application and extend the period of detention. This would be an abuse of the process of law and breach the fundamental right of liberty of the accused under Article 21 of the Constitution of India.

8. The statutory mandate is to provide an opportunity of hearing to the complainant and thereafter, it is at the sweet will of the complainant to appear before the Court at the time of hearing of the bail application or not. If the informant, despite being informed of the bail application, chooses not to appear and reposes trust in the Public Prosecutor, the bail application can still be heard in the informant's absence.

9. The Hon'ble Supreme Court, in the matter of **Hariram Bhambhi** (supra), held that compliance with the principles of natural justice and the mandatory notice requirements under Section 15A(3) and (5) of the SC/ST (Prevention of Atrocities) Act must be observed at every stage, taking note of the consistent view taken in this regard by various High Courts, including in **Ajeet Chaudhary** (supra).

10. In the present case, as has been alleged, the appellant, who is a journalist by profession has made certain comments/statements against the complainant through his facebook account. The said comments have been translated in english and are quoted below :-

Account/ Date	**Main content of the post (English translation)**
Amit Pandey (9/6/26)	"Uttamdan (UD) Minj beat up and had every rising Hindu leader in Congress beaten up..! Ever thought why so?"
Amit Pandey	"The funeral (last rites) of Congress will take place under the leadership of UD Minj, who is primarily responsible for the ruin of Congress in Jashpur and who allegedly beat up party leaders..! Coming Soon"
Amit Pandey	"During UD Minj's tenure as MLA, how much ruckus/filth was created by goons of a particular community..! 'Do you remember or have you forgotten?"
Amit Pandey (Marked:10/6/26)	"Post 1: "UD Minj's dictatorship has caused a political carnage (slaughter).."

	Post 2: "Accomplished by the hands of the alleged emperor of deceit and conspiracy, Uttamdan (UD) Minj" Post 3: "Outrage...!"
Amit Pandey (Marked:11/6/26)	“How Congress must have deceived Hindus for 70 years under the guise of secularism can be understood through this letter..! Must read the name of this Block President who claims to fight against the Chief Minister..”
Amit Pandey (Marked:9/6/26)	“Post 1: "Even big organizations like the RSS have never made such a claim; however, this letter has proved from where the Congress party is operated in Jashpur..?" Post 2: "Uttamdan (UD) Minj beat up and had every rising Hindu leader in Congress beaten up..! Ever thought why so?”

11. A perusal of the aforesaid comments/statements, which were made by the appellant from his facebook account, would make it clear that they do not relate to any caste or community as has been alleged by the complainant. Thus, as there is no prima facie case, the bar contained under Sections 18 and 18A of the Act of 1989 would not attract.

12. Having considered the above-discussed facts, the allegations made against the appellant and further considering that the appellant has no previous criminal antecedents, I am inclined to grant the benefit of anticipatory bail to the appellant. The impugned order dated 21/09/2026 passed by learned Additional

Sessions Judge (FTC), Jashpur acting for Special Sessions Judge, SC & ST (Prevention of Atrocities) Act, Jashpur (C.G.)

13. Accordingly, the instant criminal appeal is allowed. It is directed that in the event of arrest of the appellant in connection with the aforesaid offence, he shall be released on him furnishing a personal bond for a sum of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall abide by the following conditions:-

(i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,

(ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(iv) he shall not involve themselves in any offence of a similar nature in future.

The observations made during the course of this judgment are only for the purpose of considering the grant of bail to the appellant and shall not have a bearing on the merits of the case as such. Pending application(s), if any, shall stand disposed of.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Harneet/ Ajinkya