

ANTICIPATORY BAIL IN CASTE CRIMES

Context

On September 1, the Supreme Court quashed a Bombay High Court order that had granted anticipatory bail to an accused of caste crimes. In the case of *Kiran vs Rajkumar Jivaraj Jain*, a Bench led by Chief Justice of India B. R. Gavai held that Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, creates a specific bar against anticipatory bail for crimes made out prima facie. This case involves caste-based assault, abuse, and intimidation linked to an electoral dispute.

What is Anticipatory bail?

Anticipatory bail is a legal provision under Section 438 of the Code of Criminal Procedure (CrPC), 1973, which allows a person to seek bail in anticipation of their arrest for a non-bailable offense, even before they are actually detained by the police.

Meaning and Purpose

Anticipatory bail means the court directs that if a person is arrested for a non-bailable offense, they shall be released on bail automatically. This safeguard is mainly intended for individuals who fear arrest due to false accusations, personal rivalries, or professional enmities. It helps ensure liberty and prevent unnecessary detention before charges are judicially tested.

Legal Process & Granting Authority

- Only Sessions Courts and High Courts have the jurisdiction to grant anticipatory bail.
- An individual must apply for anticipatory bail and present reasons for fearing arrest; the court then assesses the application based on the nature of the alleged offense and surrounding circumstances.
- The court may impose conditions such as:
 - ✓ Mandatory presence for police interrogation if required.
 - ✓ Prohibiting attempts to influence witnesses or tamper with evidence.
 - ✓ Restricting travel outside India without court permission.

Duration and Conditions



The bail order can be time-bound or remain effective until further orders, depending on the specific court directions and facts of the case. Courts may ask for a bail bond to ensure the applicant does not abscond.

Key Points

- ✓ Only available for non-bailable offenses.
- ✓ Prevents arrest, not meant for bailable or trivial cases.
- ✓ The court maintains discretion and may cancel anticipatory bail upon proper application if misuse or violation of bail conditions occurs.

Anticipatory bail functions as a preventive measure, providing pre-arrest protection to those facing possible false charges, while empowering courts to ensure justice and accountability by attaching suitable conditions to its grant.

Why is anticipatory bail barred from SC/ST cases?

Anticipatory bail is barred from SC/ST cases mainly to protect victims from intimidation, coercion, and to ensure fair prosecution due to the unique vulnerability and historical discrimination faced by Scheduled Castes and Scheduled Tribes. Section 18 of the SC/ST (Prevention of Atrocities) Act, 1989, explicitly excludes the application of anticipatory bail provisions when a prima facie case exists under the Act.

Rationale for the Bar

- ✓ Caste-based crimes are rooted in long-standing oppression, systemic untouchability, and social marginalization.
- ✓ The bar on anticipatory bail acts as a safeguard to prevent accused persons from using bail to influence, threaten, or retaliate against victims during investigations or legal proceedings.
- ✓ Parliament intentionally created this bar to provide enhanced security and dignity to SC/ST members, ensuring their faith in the justice system and the effectiveness of the protection mechanisms.

Constitutional Validity

- ✓ The Supreme Court has affirmed, through multiple judgments, that barring anticipatory bail under the SC/ST Act does not violate Articles 14 (equality before the

law) or 21 (right to life and personal liberty) of the Constitution, as special protection for vulnerable groups is justified by their socio-historical context.

- ✓ The differential treatment is thus constitutionally valid, emphasizing the need to secure justice and dignity for SC/ST victims over procedural relief for accused persons.

Limited Exception

- ✓ Courts can consider anticipatory bail only if it is clear from the FIR and evidence that no prima facie case under the SC/ST Act is made out; if the allegations are manifestly false or baseless, anticipatory bail may be granted at judicial discretion.

Key Supreme Court Observations

- ✓ Courts must not conduct an evidentiary “mini-trial” at the bail stage, but simply assess whether a prima facie offence under the Act is disclosed.
- ✓ Protection measures under the SC/ST Act, including the anticipatory bail bar, are considered substantive safeguards, not mere formalities.

In summary, anticipatory bail is barred in SC/ST cases to prioritize victim protection, ensure effective prosecution, and uphold social justice for historically disadvantaged communities, with limited exceptions only in cases where allegations are demonstrably unfounded.

Recent Controversy

- ✓ On November 26, 2024, Kiran, who belongs to the Scheduled Caste community, lodged an FIR claiming that Rajkumar Jain and his associates had assaulted him and his family because he declined to vote as instructed during the Assembly elections.
- ✓ The complaint stated that the accused used iron rods to attack him, hurled caste-based abuses, harassed his mother and aunt, snatched a mangalsutra, and even threatened to set their house on fire with petrol bombs.
- ✓ Independent witnesses were said to have seen the incident. The Additional Sessions Judge at Paranda refused anticipatory bail, observing that there was evident caste-based malice and supporting evidence.
- ✓ However, the Aurangabad Bench of the Bombay High Court overturned this order, calling the allegations politically driven, inflated, and contradictory, and subsequently granted bail. This decision was then challenged before the Supreme Court