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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 12TH DAY OF JANUARY 2026 / 22ND POUSHA, 1947

CRL.A NO. 2250 OF 2025

CRIME NO.1111/2025 OF ENATH POLICE STATION,

PATHANAMTHITTA

AGAINST THE ORDER DATED 26.11.2025 IN CRMP NO.9150

OF 2025 OF DISTRICT COURT& SESSIONS COURT/RENT CONTROL

APPELLATE AUTHORITY, PATHANAMTHITTA

APPELLANT/PETITIONERS/ACCUSED NOS.6 AND 8:

- 1 ATHUL .P
 AGED 24 YEARS
 S/O. PUSHKARAN ACHARI, AMAL BHAVANAM,
 PORUVAZHY, KOLLAM, PIN - 691552
- 2 AJEESH .T
 AGED 24 YEARS
 S/O THULASIDHARAN, KOCHUHTUNDIL, EDAKKAD P.O.,
 PORUVAZHY, KOLLAM, PIN - 691552

BY ADVS.
SRI.K.R.RAJKUMAR
SHRI.JAGADEESH LAKSHMAN
SRI.R.K.RAKESH
SMT.SREELAKSHMI P.S.
SMT.NANDIDA SEBASTIAN

RESPONDENTS/RESPONDENT/STATE AND DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 MANESH
 AGED 32 YEARS
 S/O MOHANAN, MANESH BHAVANAM, KATTITHANVILA,
 THUVAYOOR SOUTH P.O., KADAMBANADE,
 PATHANAMTHITTA DISTRICT, PIN - 691552

SRI.NOUSHAD.K.A, SR.PUBLIC PROSECUTOR



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THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
12.01.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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JUDGMENT

Dated this the 12th day of January, 2026

Sri.Athul P. and Sri.Ajeesh T, who were initially got arrayed as accused Nos.6 and 8 in crime No.1111/2025 of Enath Police Station, Pathanamthitta, have filed this criminal appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended in 2018 (hereinafter referred to as 'SC/ST POA Act, 2018' for short), challenging order dated 26.11.2025 in Crl.M.P.No.9150/2025 on the files of the Special Court for SC/ST (POA) Act cases, Pathanamthitta, whereby the learned Special Judge dismissed the anticipatory bail plea at the instance of the appellants.

2. Heard the learned counsel appearing for the appellants and the learned Public Prosecutor for the 1st respondent. Although notice was served upon the defacto



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complainant, as mandated under Section 15A(3) of the SC/ST (POA) Act, 2018, he did not turn up.

3. Here, the prosecution alleges commission of offences punishable under Sections 296(b), 115(2), 118(1), 351(2), 110, 324(4), 189(2), 191(2), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023, as well as under Sections 3(1)(s) and 3(2)(va) of the SC/ST (POA) Act, 2018 by the accused. The prosecution allegation is that at about 10.45 pm on 28.09.2025, at a place namely Kochukunnumukku, hurling obscene words on the defacto complainant and intimidating him with death, accused No.1 in this crime had attempted to beat the defacto complainant aiming at the head of the defacto complainant using an iron rod. While hurling obscene words, the 2nd accused had stamped on the right thigh of the defacto complainant. Accused Nos. 5 and 6 along with the other accused persons had attacked the persons, namely, Manikuttan, Akhil, Sreejith and Kiran, who were accompanying the defacto complainant.



In addition to that, the accused persons had destructed the autorickshaw owned by the defacto complainant.

4. It is submitted by the learned counsel for the appellants that the appellants are innocent and the occurrence took place during the Onam celebration and there was no deliberate attempt in this case to commit the offences. According to the learned counsel for the appellants, none of the offences would attract against the appellants and the appellants are ready to abide by any conditions as a pre-requisite for grant of anticipatory bail. Therefore, the Special Court went wrong in dismissing the anticipatory bail plea of the appellants. As such the learned counsel for the appellants pressed for interference in the order impugned.

5. Zealously opposing grant of anticipatory bail to the appellants and fervently supporting the order impugned, the learned Public Prosecutor produced the case records, including FIS and the wound certificate of the injured, to show the active involvement of the appellants in



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the crime and to substantiate that *prima facie* the allegations are made out. He also pointed out that as per Section 18 of the SC/ST (POA) Act, 2018, there is a bar to grant anticipatory bail in cases where offences under the SC/ST (POA) Act, 2018 are involved. According to him, in the instant case, arrest, custodial interrogation and recovery of weapon are necessary in relation to the appellants to accomplish meaningful investigation and successful prosecution. Therefore, anticipatory bail cannot be granted to the appellants and the order under challenge is liable to be confirmed.

6. On perusal of the FIS, it could be gathered that the accused persons, namely, Akhil, Athul, Ajeesh along with Aravind, Anandu, Rahul and Jomon, followed and assaulted the victims along with other identifiable persons. As pointed out by the learned Public Prosecutor, as of now, the appellants are accused Nos.5 and 6 in this case. On perusal of the copy of the wound certificate, dated



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28.09.2025, issued by the General Hospital, Adoor, the same would show that the injured sustained injury to chest, abdomen and also lacerated wound of 3 x 1 x 1 cm on the right parietal aspect of the scalp. He was advised to undergo CT examination of brain as well as surgery consultation on the basis of the clinical examination. Thus prima facie the prosecution records would show commission of offences under the SC/ST (POA) Act, 2018 as well as non-bailable offence under the Bharatiya Nyaya Sanhita, 2023, (hereinafter referred to as 'BNS' for short). In such a case, grant of anticipatory bail cannot be considered.

7. As per Section 18 of the SC/ST (POA) Act, 2018, application of Section 438 of the Code of Criminal Procedure would not apply in relation to offences under the SC/ST (POA) Act, 2018. In the same phraseology, Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, also has no application in relation to offences under the SC/ST (POA) Act, 2018. Thus, grant of anticipatory bail is barred



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and the bar would apply when the prosecution materials prima facie show commission of offences under the SC/ST (POA) Act, 2018. Indubitably, it is well settled that the bar under Section 18 of the SC/ST (POA) Act, 2018 is not absolute, when the prosecution records do not show the ingredients for the offences under the Act. In the instant case, the defacto complainant is a known person to the accused and therefore, he named the assailants by disclosing their name with certainty and therefore, the knowledge of the caste identity of the defacto complainant to the accused can be inferred from the circumstances, as provided under Section 8 of the SC/ST (POA) Act, 2018. Apart from that, there is allegation of commission of non-bailable offence punishable under Section 110 of BNS also. In such a case, anticipatory bail cannot be granted as the same would impede the investigation.

In the result, this appeal stands dismissed, confirming the order of the Special Court, with a direction to the appellants/accused Nos.5 and 6 to surrender before the



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Investigating Officer forthwith. Failing which the Investigating Officer is at liberty to arrest the appellants/accused to proceed with the investigation.

**Sd/-
A. BADHARUDEEN
JUDGE**

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