



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 604 OF 2024

1] Rahul Baban Zaware
Age: 38 years, Occ. Advocate,
R/o. Venkute, Tq. Parner,
Dist. Ahmednagar.

2] Sandip Laxman Choudhari
Age: 42 years, Occ. Agri.,
R/o. Hanga, Tq. Parner,
Dist. Ahmednagar

3] Dipak Dnyandev Lanke
Age: 49 years, Occ. Agri.,
R/o. Hanga, Tq. Parner,
Dist. Ahmednagar

... APPELLANTS

(Ori. Accused Nos.1, 7 & 18)

VERSUS

1] The State of Maharashtra
Through Police Station Officer,
Tophkhana Police Station,
Dist. Ahmednagar

2] The Superintendent of Police
Ahmednagar, Dist. Ahmednagar

3] X. Y. Z. **... RESPONDENTS**

....
Mr. R. R. Karpe, Advocate for the Appellants
Mr. R. D. Raut, APP for Respondent Nos. 1 and 2
Mr. A. D. Ostwal, Advocate for Respondent No.3

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CORAM : Y. G. KHOBRAGADE, J.

RESERVED ON : January 17, 2026
PRONOUNCED ON : January 22, 2026

JUDGMENT :-

1. The appellants/original accused Nos. 1, 7 and 18 in Crime No. 0698 of 2024, registered with Tophkhana Police Station, Ahmednagar, on 07.06.2024, have invoked the jurisdiction of this Court under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and takes exception to the judgment and order dated 01.07.2024 below Exh.1 in Criminal Bail Application No.811 of 2024, passed by the learned Additional Sessions Judge and Special Court under the Atrocities Act, thereby declined to enlarge the present appellants/accused on pre-arrest bail.

2. It is the case of prosecution that, on 07.06.2024, the respondent No.3 / informant lodged a report with Tophkhana Police Station alleging that, she is residing with her husband and in-laws, jointly. Her husband is an agriculturist by profession. By caste, she is “Hindu Mahar”, which is recognised as Scheduled Cast. Her husband is belong to Hindu Maratha caste. Prior to two years, she performed inter-caste marriage out of love affairs. On 06.06.2024, at about 11.30 a.m. to 12.00 noon, when she was standing in front of her

house and her husband was inside the house. At that time 3 – 4 four-wheelers came in front of her house and stopped. Thereafter total 24 persons including the present appellants/original accused Nos. 1, 7 and 18 alighted from those vehicles and visited her. At that time, accused No.1/present appellant No.1 Rahul Baban Zaware abused her on her caste and asked whereabout her husband. Further, accused No.1/present appellant No.1 Rahul Baban Zaware told her that her second husband now became the Member of Parliament and asked her to return the ‘Mangalsutra’. Therefore, she asked the present petitioner No.1/accused No.1, not to abuse her on the basis of her caste but the present petitioner No.1 abused her in her cast and torned her dress and outraged her modesty. Not only this but the petitioner No.1 gave kick on her stomach, therefore, she fell down. It is further alleged that, the present appellant No.3 / accused No.18 Mr. Dipak Dnyandev Lanke and accused No.7 / present appellant No.2 Sandip Laxman Choudhari also abused her on her caste and Other accused persons were holding weapons like sickle and wooden logs. On the basis of said report Crime No. 0698 of 2024, registered against the present appellants/accused as well as others for the offence punishable under Sections 354-A, 143, 147, 148, 149, 323, 504, 506

of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 37(1), 37(3) and 135 of the Maharashtra Police Act.

3. The learned counsel for the appellants submit that, the present appellants have falsely implicated in the present crime. They are innocent and they were not present at the spot of incident as alleged in the F.I.R. On contrary, on 06.06.2024, the appellant No.1 lodged a F.I.R. No.0414 of 2024 with Parner Police Station against the husband of present respondent No.3/informant in respect of the incident occurred on 06.06.2024 at about 12.00 p.m., when appellant No.1 accused had visited in his Maruti Swift car at Ambedkar square, Parner, at that time two unknown persons on two wheeler came in front of his car and stopped his car. Thereafter all of sudden one Shri Vijay Auti and Ritesh Panmand climbed on the bonnet of his car and broken front glass of the car. So also, they abused him in filthy language on account of insult on the day of election. Therefore, the learned counsel for the appellants submit that, respondent No.3 lodged a false F.I.R. against the present appellants and the appellants are falsely implicated in Crime No.0698 of 2024, registered with Tophkhana Police Station.

4. The learned counsel for the appellants submit that, the assault on the present appellant No.1 at the hands of the husband of respondent No.3 was captured in the CCTV footage on 06.06.2024 at about 12.00 noon. The present appellant No.1 was hospitalized due to injuries sustained to him in the said attack and photographs taken at the Hospital shows that appellant No.1 was hospitalized at about 12.30 hrs. However, the respondent No.3/ informant narrated in her F.I.R. about occurrence of incident on 06.06.2024 at about 11.30 a.m. to 12.00 p.m. Therefore, this fact itself falsify occurrence of incident narrted in the FIR and no such incident was occurred. But on the basis of concocted story the appellants are falsely implicated.

5. It is further canvassed that considering the time prescribed in the F.I.R, is at about 11.30 a.m. to 12.00 p.m., whereas the appellant No.1 lodged the F.I.R. No.0414 of 2024 at about 22.12 hrs., narrating the incident occurred at about 12.00 hrs. Therefore, there is no possibility to visit the present appellant No.1 at the house of the informant / respondent No.3 at the time as narrated in the F.I.R. No.0698 of 2024.

6. The learned counsel for the appellants further canvassed that, on 03.02.2024, the present appellant No.1 issued a representation to the Police Inspector, Parner and informed about receiving phone calls on his mobile from one N. D. Borude and he called said N.D. Borude at Jai Baharang Hotel. Thereafter within five months the said N. D. Borude and Pritesh Panmand husband of respondent No.3 informant, Pawan Baburao Auti and other 2 – 3 unknown persons visited and it was life threat to him. Therefore, the learned counsel for the appellants submit that the F.I.R. No.0698 of 2024 lodged by respondent No.3 is counterblast to the F.I.R. No.0414 of 2024 lodged by the present appellant No.1 just to raise the defense. So also, story narrated in said F.I.R. does not constitute offence under Section 3 of the SC/ST Atrocities Act. It is further submit that, no positive assertion given in the FIR that the appellants/accused are having knowledge about the caste of respondent No.3 / informant.

7. It is further canvassed that the informant/respondent No.3 has only stated that she belongs to Scheduled Caste but she has not disclosed in FIR that the present appellants/accused are having knowledge about her caste and they abused in her caste. Therefore,

merely with an intention to insult, abused on her caste does not constitute the offence. Therefore, the bar under Section 18 of the SC/ST Atrocities Act does not create to enlarge the present appellants on anticipatory bail.

8. In support of these submissions, the learned counsel for the appellants placed reliance on the following judgments/case laws:-

- (i) *Judgment dated 10.08.2020, passed by this Court in Criminal Appeal No.351 of 2020 (Dada @ Anil Navnath Murkute Vs. The State of Maharashtra and another);*
- (ii) *Judgment dated 05.12.2019, passed by this Court in Criminal Appeal No.1084 of 2019 (Vasantrao Madhavrao Vhadgir and others Vs. The State of Maharashtra and another);*
- (iii) *Judgment dated 08.04.2019, passed by this Court in Criminal Appeal No.190 of 2019 (Jairam Shankarrao Tale Vs. The State of Maharashtra and another WITH Criminal Appeal No.209 of 2019 (Savita Gajanan Ghume Vs. The State of Maharashtra and another);*
- (iv) *Judgment dated 18.02.2020, passed by this Court in Criminal Appeal No.1163 of 2019 (Vijaymala Tanaji Dolare Vs. State of Maharashtra), reported in AIRONLINE 2020 BOM 159;*
- (v) *Judgment dated 12.01.2026, passed by the Hon'ble Supreme Court in the case of Keshaw Mahto @ Keshaw Kumar Mahto Vs. State of Bihar and another, Special Leave Petition (Crl.) No.12144 of 2025.*

9. Per contra, Mr. R. D. Raut, the learned APP for Respondent Nos. 1 and 2 and Mr. A. D. Ostwal, learned counsel for Respondent No.3, strongly opposed the appeal.

10. The learned counsel for the respondents submit that, on 06.06.2024, the incident of abusing on caste at the hands of the accused and assault was occurred at about 11.30 a.m. to 12.00 p.m. and soon after the incident the respondent No.3/Informant visited at Parner Police Station to lodge report, however, her Report was not accepted because of political pressure because the brother of accused No.18/appellant No.3 is Member of Parliament. However, the F.I.R. No.0414 of 2024 lodged by appellant No.1 because of said political pressure.

11. It is further canvassed on behalf the Respondent No. 3 that, the place of incident in both FIR i.e. F.I.R. No.0414 of 2024 and F.I.R. No.0698 of 2024 are different. Therefore, the incident narrated in F.I.R. No.0698 of 2024 is different and it is in respect of abusing the informant on her caste in front of her house in the public view. Therefore, Section 18 of the SC/ST Atrocities Act create bar of Section 438 of Cr.P.C.. Therefore, the appellants are not entitled to release on anticipatory bail.

12. In support of these submissions, the learned counsel for the respondents placed reliance on a recent judgment of the Hon'ble

Supreme Court in the case of *Kiran v. Rajkumar Jivraj Jain and Another, 2025 SCC OnLine SC 1886*, wherein the incident of abusing the informant on the basis of caste occurred in front of the informant's house. While considering the scope of Section 18 of the said Act, the Hon'ble Supreme Court held that, the provisions of Section 18 of the Act, by express language, exclude the applicability of Section 438 of the Cr.P.C. and create an absolute bar against the grant of anticipatory bail in relation to the arrest of a person who faces a specific accusation of having committed an offence under the SC/ST (Prevention of Atrocities) Act.

13. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the F.I.R. On face of record, it appears that, the informant/respondent No.3 belong to Hindu Mahar, which is recognised as Scheduled Cast within meaning of clause 24 Article 366 of the Constitution of India as per Sec 2(c) of the S.C./S.T. Prevention of Atrocities Act, 1989. The Respondent no. 3/Informant herself stated that she married out of love affairs with the person who is Hindu Maratha, which is non-schedule cast. The informant specifically alleged that, on 06.06.2024, when she was standing in front of her house at about 11.30 a.m. to 12.00 p.m., at that time, her

husband was inside the house and at that time 3 – 4 cars came there and stopped. Thereafter, the present appellants and other 21 persons who are named in the F.I.R. alighted from the said cars. Thereafter, the present appellant No.1 Rahul Baban Zaware visited her and uttered that “का न महारटे आमचे मराठ्याचे घरात आली, तुझा दुसरा नवरा खासदार झाला आहे. त्याने तुला मंगळसूत्र केले आहे ते आमचे देवून टाक.”

(As to why Mahar caste person entered in the house of Maratha. Her second husband became Member of Parliament. He made Mangalsutra for you and asked to return the same). Thereafter, the accused No.1 torned her dress and outraged her modesty then he kicked on her stomach, therefore, she felt down. At that time, the appellant No.3 / original accused No.18 Dipak Lanke also abused on her caste saying that “ तुला महाराचा भेटला नाही का, मराठ्याचा भेटला का?.”

(She did not get the person from Mahar community and only she got the person from Maratha caste). So also, the present appellant No.3/accused No.18 Mr. Dipak Dnyandev Lanke and accused No.7/present appellant No.2 Sandip Laxman Choudhari abused her on her caste in front of her house within public view.

14. Needless to say that as per contents of the F.I.R., incident of abusing the informant/respondent No.3 on her caste occurred in

front of her house in public view. In the case of *Dada @ Anil Navnath Murkute*, cited (supra), this Court considered the case of *Prithvi Raj Chauhan Vs. Union of India, reported in 2020 SCC Online SC 159*, and held that, in F.I.R. there is no whisper that, the appellant accused had knowledge about the first informant belongs to scheduled caste or scheduled tribe community and there is no reference to the caste of the appellant. As well as the appellant accused allegedly have hurled abuses to the first informant on the basis of caste by saying “*Maharde*” and was not in public view.

15. In the case of *Vasant Madhavrao Vhadgir*, cited (supra), the accused were enlarged on anticipatory bail on the ground that, the informant had disclosed about uttering words at the hands of the appellant accused with “*Maharache*” or “*Adiwasi*” etc., and “*Tumhi Majale Ka*” etc.

16. In the case of *Jairam Shankarrao Tale*, cited (supra), there were no whisper or averments in the F.I.R. that, the appellants are not the members of S.C. or S.T. category and the appellants accused were aware that they had knowledge about the caste of first informant.

17. In the case of *Vijaymala Tanaji Dolare*, cited (supra), the F.I.R. does not discloses the specific abuses at the hands of the appellant / accused No.3, and only the averment was made that the accused had abused informant on the basis of his caste.

18. In the case of *Keshaw Mahto @ Meshaw Kumar Mahto*, cited (supra), the Hon'ble Supreme Court has considered the provisions of Section 3(1)(r) of the SC/ST Atrocities Act, and held that, the said offence is attracted where the reasons for intentional insult or the intimidation by accused is subjected to the member of Scheduled Castes/Scheduled Tribes and said offence cannot stand merely fact that the informant / complainant is the member of Scheduled Caste and observed in paragraph Nos. 13 to 15, as under:-

“13. To put it briefly - first, the fact that the complainant belonged to a Scheduled Caste or a Scheduled Tribe would not be enough. Secondly, any insult or intimidation towards the complainant must be on the account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

14. With a view to dispel any doubt and lend clarity, we deem it appropriate to mention that even mere knowledge of the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe is not sufficient to attract Section 3(1)(r).

15. Further, for an offence to be made out under Section 3(1)(s), merely abusing a member of a Scheduled Caste or a Scheduled Tribe would not be enough. At the same time, saying caste name would also not constitute an offence.”

19. In the case of ***Kiran Vs. Rajkumar Jivraj Jain***, cited (supra), the Hon'ble Supreme Court held that, Section 18 of the SC/ST Atrocities Act creates a bar for invoking section 438 of Cr.P.C. if the accused have committed an offence under the SC/ST Atrocities Act in public view.

20. In the case in hand, the incident of abusing the informant/respondent No.3 in her caste appears to be occurred in front house of the informant/Respondent no. 3 in the public view. Therefore, I am on the view that, the accused have allegedly been committed the offence under Sections 3(1)(r), 3(1)(s) of the SC/ST Atrocities Act, therefore, as per the ratio laid down in the case of ***Kiran*** cited (supra), bar under Section 438 of Cr.P.C. is created and the appellants are not entitled to release on anticipatory bail.

21. No doubt, it is canvassed on behalf of the appellants that, the husband of respondent No.3 assaulted the Appellant No. 1, due which he sustained griveous injuries and said incident has been captured in the CCTV footage on 06.06.2024 at about 12.00 noon. So also, the appellant No.1 was hospitalized and photographs taken at the Hospital shows that appellant No.1 was admitted in Hospital at

about 12.30 hrs. Therefore it falsify occurrence of incident narrated in the FIR by the Respondent no. 3/Informant. However, said defense can not be considered at the initial stage while deciding the application for anticipatory bail. But it requires to consider the procurement of incident of abusement to the member of SC, ST community in the public view or not.

22. Further though the learned counsel for appellants canvassed about occurrence of incidents in two different F.I.R. Nos.0414 of 2024 lodged by the Appellant no. 1 and F.I.R. No.0698 of 2024 lodged by the Respondent No. 3/ Informant, however, in both FIRs place and time of occurrence of incident is different. Therefore, the defense set out by the appellants is not requires for consideration while deciding the application for anticipatory bail.

23. On 01.07.2024, the learned Special Court passed the impugned order and granted anticipatory bail to other accused persons in Crime No.0698 of 2024, however, declined to grant anticipatory bail to the present appellants/original accused Nos. 1, 7 and 18. Therefore, I do not find that the accused have make out substantial grounds to enlarge them on anticipatory bail.

24. In view of above discussion, the present appeal is liable to be dismissed. Hence, I proceed to pass the following order:-

ORDER

- (i) The appeal is dismissed.
- (ii) The interim order dated 08.07.2024, passed by this Court, enlarging the present appellants/accused on pre-arrest bail, is hereby revoked, and the bail bond, if any, furnished by them also stands revoked.
- (iii) The appellants are granted two weeks time to surrender before the Investigating Officer.

[Y. G. KHOBRAGADE, J.]

SMS