



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 368 OF 2024

APPELLANTS:

1. Anand Gopal Wankhede,
Aged 38 years, Occupation :Agriculturist.
2. Shubham s/o Purushottam Umale,
Aged 27 years, Occupation: Education.
3. Digambar Shaligram Hiwarkar,
Aged 37 years, Occupation: Agriculturist.
4. Gajanan Changdeo Waghmare,
Aged 34 years, Occupation: Agriculturist.
5. Anand Digambar Nirmal,
Aged 24 years, Occupation: Education.
6. Dayanand Rameshwar Nirmal,
Aged 23 years, Occupation: Education.
7. Raju Maroti Ghule,
Aged 32 years, Occupation: Agriculturist.
8. Om Vinod Chavan,
Aged 21 years, Occu: Student.
9. Anil Ramkrushna Patond,
Aged 33 years, Occupation: Agriculturist.
10. Ashwin Vasanta Umale,
Aged 26 years, Occupation: Service.
All permanent residents of Dhanora,
Tahsil Jalgaon Jamod, District Buldhana.

...VERSUS...

RESPONDENTS

1. The State of Maharashtra,
through Police Station Officer,
Police Station Jalgaon Jamod,
District Buldana.
2. Ravina Gulab Avchar,
Aged 29 years, Occupation: Not known,
resident of Dhanora Mahasiddha, Jalgaon
Jamod, District Buldana.

Mr. U.P Dable, counsel for the appellants

Mr. H.D.Dubey, APP for respondent/State.

Ms Bhvya Dhury, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25/11/2024

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. Heard finally with the consent of learned counsel
appearing for the parties.

4. By preferring this appeal under Section 14-A of the
Scheduled Caste and Scheduled Tribes (Prevention of Atrocities)
Act, 1989 (for short, “the Atrocities Act”), the appellants have

challenged the order passed by the learned Special Court in Anticipatory Bail Application No.253 of 2024, by which the anticipatory bail application of the present appellants is rejected.

5. The crime is registered on the basis of report lodged by Ravina Gulab Avchar on an allegation that on 14.04.2024, there was a procession on account of 133rd birth anniversary of Dr. Babasaheb Ambedkar, at the relevant time, the appellant No.1 abused the informant on her caste and other appellants have assaulted her by fist, kick and blows as well as the family members. On the basis of said report, the Police have registered the crime against the present appellants.

6. After registration of crime, the appellants approached the learned Special Court for grant of bail, but in view of bar under Section 18 of the Atrocities Act, the learned Special Court has rejected the application filed by the appellants. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellants on the ground that the learned Trial Court has not considered that there is no *prima facie* case. Mere reference of the caste in First Information Report (FIR) is not sufficient and attract the bar under Section 18 of the Atrocities

Act. In view of that the order passed by the learned Special Court deserves to be quashed and set aside. The learned counsel further submitted that considering the role attributed to the present appellant No.1, which is only to the extent of sentence that by which he has referred the caste. Thus, there was no intention as far as the humiliation of the complainant is concerned. In view of that also the appeal deserves to be allowed.

7. Learned APP for the respondent/State and learned counsel for the respondent No.2 strongly opposed the prayer of bail on the ground that in furtherance of the common object, the appellants have abused the informant on her caste. There is a specific bar under Section 18 of the Atrocities Act, and therefore, the prayer for grant of anticipatory bail deserves to be rejected.

8. Heard learned counsel for the appellants and learned APP for the respondent/State. Perused the recitals of the FIR and the other investigation papers from which, it reveals that during the procession on account of birth anniversary of Dr. Babasaheb Ambedkar, the scuffle took place between the informant and the present appellants. It is alleged that the present appellant No.1 abused the informant on her caste. On perusal of the recitals of

the FIR, it reveals that there is only reference of the caste and as far as abuses are concerned, there is no single material to show that it is the public view, the appellants have abused the informant by referring her caste. It is well settled that when no *prima facie* case is made out warranting arrest and when the offence is not made out, the Court can grant pre-arrest bail. As far as the bar under Section 18 of the Atrocities Act is concerned, wherever there is no *prima facie* case, the said bar will not attract. Considering the entire material on record, admittedly, there is mere a reference of the caste referred by the appellant No.1. As far as the other appellants are concerned, there is no single whisper that they have either referred the caste or abused the informant on her caste. Considering the same, the bar under Section 18 of the Atrocities Act will not attract and the learned Special Court has not considered the same, therefore, the order passed by the learned Special Court deserves to be quashed and set aside and the prayer of the appellants deserves to be allowed. In view of the above, I proceed to pass the following order:

- a] The appeal is **allowed**.
- b] In the event of arrest of the appellants in

connection with Crime No.237 of 2024 registered with Police Station Jalgaon Jamod, District Buldana, for the offences punishable under Sections 143, 147, 149, 323 and 506 of the Indian Penal Code, 1860; and under Sections 3(i)(r)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants shall be released on anticipatory bail on executing P. R. Bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

- c) The appellants shall attend the concerned Police Station as and when required for the investigation purpose and they shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case.

9. The appeal is disposed of.

10. The fees of the appointed learned counsel be quantified as per the rules.

[URMILA JOSHI-PHALKE, J.]