



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CRIMINAL APPEAL NO. 28 OF 2025

AVINASH BALAJI SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Appellant : Mr. Vishnu Kande h/f. Sanket S. Palnitkar
APP for Respondents/State : Ms. Ashlesha S. Deshmukh
Advocate for Respondent No.2 : Mr. S.D. Tekwad
.....

CORAM : Y.G. KHOBRAGADE, J.
DATE : 27.02.2025

PC.:-

1. Mr. Vishnu Kande h/f. Advocate Mr. Sanket Palnitkar the learned counsel appearing for the Appellant stated that the arguing counsel was not feeling well and, hence, prayed for an adjournment. However, the said request was refused for want of a bona fide reason.

2. On the face of the record it appears that, the Appellant/accused has put forth prayer clauses B and C as follows

“B] The Police of Naigaon Police Station, Dist. Nanded be directed to release the appellants on bail in the event of their arrest in connection with crime No.0071/2024 Dated-21/03/2024 registered in Naigaon Police Station Dist- Nanded for the offences punishable U/sec. 324, 223, 504, 506, 34 of the Indian Penal Code and u/s. 3(1)(r), 3(1)(s), 3(2)(va) of SC and ST (Prevention of Atrocities) Act.

C] Pending the hearing and final disposal of this Anticipatory Bail application, police of Naigaon Police Station, Dist. Nanded be directed to releasde the appellants on bail in the event of their arrest in connection with crime No.0071/2024 Dated- 21/03/2024 registered in Naigaon Police Station for the offences punishable U/sec. 324, 223, 504, 506, 34 of the Indian Penal Code and u/s. 3(1)(r), 3(1)(s), 3(2)(va) of SC and ST (Prevention of Atrocities) Act.”

3. On 10.01.2025, the Appellant/accused was arraigned in Crime No. 0071/2024 registered with Naigaon Police Station, Dist. Nanded on 21.03.2024 for the offence punishable under Section 323, 324, 504, 506 read with Section 34 of the I.P.C. and under Section 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short the SC-ST Act).

4. On 30.08.2024, this Court (Shivkumar Dige, J.) passed an order in Criminal Appeal No.419/2024 and disposed of the appeal as withdrawn against the accused, Balwant Shinde and Avinash Shinde (present Appellants). However, the criminal appeal was allowed in respect of the accused, Santosh Shinde, and he was released on anticipatory bail.

5. On 13.01.2025, this Court passed an order in Criminal Appeal No.28/2025 and considered that the present Appellant/accused, Avinash Balaji Shinde, was to appear in his third-year B.Com examination which was scheduled between 14.01.2025 to 18.01.2025. Therefore, considering such

exigency, this Court released the Appellant/accused on ad-interim anticipatory bail, as observed in clause (ii) of the operative order, which reads as follows:

“ii) Till 18.01.2025, in the event of arrest of the Appellant in connection with C.R. No. 71/2024 registered with Naigaon Station, Dist. Nanded for the Police offences punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one surety in the like amount.”

6. Again on 06.02.2025, this Court (Coram: R.M. Joshi, J.) passed the following order, which reads as under:

“1. Appellants apprehend arrest in connection with Crime No. 0071/2024 registered with Naigaon Police Station, District. Nanded for the offences punishable under Sections 324, 323, 504, 506 read with 34 of Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. After hearing learned counsel for the Appellant for some time, this Court finds that there is misuse of the order passed by this Court dated 25.10.2024 in Criminal Application No. 4435/2024. The said order indicates that in order to enable the appellant for TET examination, the liberty was protected till 11.11.2024 for the reason that there would be irreparable loss caused to him if he is unable to appear for the examination.

3. It was argued on behalf of the appellant that the appellant surrendered before the Investigating Officer on 07.11.2024 and he was released on bail.

4. This Court, prima facie finds that this is abuse of the order passed by the Court. The said order was not passed on merit of the case. The said discretion was exercised only with the view that the

appellant is in a position to appear for the examination. In the circumstances, Investigating Officer to remain present before this Court on 12.02.2025.”

7. Needless to say, subsequently, on 12.02.2025, this Court passed an order and accepted the apology of the Investigating Officer for not understanding the bail order.

8. As per the order dated 13.01.2025, interim anticipatory bail was granted to the Appellant, Avinash Balaji Shinde, in Criminal Appeal No. 28/2025, considering that he was required to appear for an examination between 14.01.2025 and 18.01.2025. By the said order, the Appellant was directed to attend the concerned police station as and when required. Thereafter, it was reported that the Appellant has absconded and was not traceable. Therefore, it appears that the cause of action in the present appeal does not survive, and, as such, vide order dated 30.08.2024, passed by this Court, the appeal claiming anticipatory bail in Crime No.71/2024 has already been disposed of in respect of the present Appellant. Therefore, the present appeal is dismissed. The Investigating Officer may arrest the Appellant/accused.

[Y.G. KHOBRADE, J.]