



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

CRIMINAL APPEAL NO. 170 OF 2025

Venkatesh Sanjay Rathod

.. Appellant

Versus

The State Of Maharashtra And Another

.. Respondents

Mr. Swapnil S. Rathi, Advocate for the Appellant.

Smt. A. S. Deshmukh, APP for Respondent No. 1.

Mr. R. P. Cheble, Advocate for Respondent No. 2 (Appointed).

CORAM : KISHORE C. SANT, J.

DATED : 13th JUNE, 2025.

P C. :-

. Heard the parties for some time.

2. The appellant has approached this Court challenging an order passed by the learned Additional Sessions Judge – 2, Parbhani dated 11.02.2025 thereby rejecting the application of the appellant seeking bail in the event of arrest in connection with the offence registered with Police Station, Jintur bearing Crime No. 52/2025 for the offence punishable under Sections 117 (2), 118 (1), 352, 351 (2), 3 (5) of Bhartiya Nyaya Sanhita, 2023 and under Sections 3 (1) (r), 3 (1) (s), 3 (2), 3 (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short “Atrocities Act”). It is alleged in the FIR that, on 23.01.2025 the informant/respondent No. 2 asked the present

appellant as to why he rides a motorcycle in a high speed in the lane. It is alleged, on that the present appellant abused the complainant in the name of caste and spitted on his face and also assaulted him with an iron rod. He was further assaulted by one more person namely Arjun Pawar and Nikita Rathod. He received injuries. He was taken to the rural hospital, Jintur and from there he was referred to the civil hospital, Parbhani. He thus lodged the report on 29.01.2025.

3. Apprehending arrest, the appellant approached the learned Sessions Court seeking bail in the event of arrest. The said came to be rejected. The bail application of accused Nos. 2 and 3, however, came to be allowed.

4. The learned advocate Mr. Rathi for the appellant vehemently argued that, in fact, no offence is made out attracting the provisions of the Atrocities Act. There is no intention to insult and humiliate the informant even taking the FIR as it is. He submits that, the learned Trial Judge failed to appreciate this aspect. The only reason assigned by the learned Trial Court is that the weapon is yet to be recovered and nothing else. He submits that, in fact, there was a quarrel on account that the informant in this case had outraged modesty of mother of the appellant. On that, she has lodged FIR with the police on 27.01.2025 i.e. much prior to the complaint lodged by the respondent being FIR

No. 47 with the same police station for the offences under Sections 74, 79, 296, 115 (2), 351 (2), 351 (3), 3 (5) of the Bratiya Nyaya Sanhita, 2023. He thus submits that only to counter the earlier complaint this complaint is lodged after much delay. He relies upon the judgments in the cases of (i) Vinod s/o Shankar Thakare and others Vs. State of Maharashtra and another reported in 2022 (6) Mh.L.J. (Cri.) 383 and (ii) Bhaktaraj Parasram Angulwar Vs. State of Maharashtra reported in AIR Online 2019 Bom 3326. He thus submits that, the appeal deserves to be allowed by quashing and setting aside the impugned order.

5. The learned A.P.P submits that, there is statement of independent witness who supports the case of the prosecution.

6. On this, the learned advocate Mr. Rathi submits that, the person whose statement is read out by the learned A.P.P is not mentioned in the statement of the informant though the informant has referred to presence of some other persons.

7. So far as delay is concerned, the learned A.P.P pointed out that the appellant was admitted in the hospital and therefore, he was in hospital from 23.01.2025 till 12.02.2025 and therefore, some delay is caused. She submits that, looking to the FIR it is clearly seen that, there was clear intention to insult and humiliate the respondent in the name of caste. She prays for rejection of the appeal.

8. The learned advocate Mr. Cheble for respondent No. 2 (appointed) adopts the argument of the learned A.P.P.

9. In the case of **Vinod s/o Shankar Thakare** (*supra*), this Court at Nagpur Bench has considered the FIR. It is observed that, only allegation that by referring the caste of the informant the accused has told him to go off the place and it was not followed by any other action or utterances.

10. In the case of **Bhaktaraj Parasram Angulwar** (*supra*), the Court considered that there was mere utterance of the caste asking as to why complainant require the electricity. It is held that, that would not show any threat or act of intimidation on the part of the accused. Neither it would show any mens rea to humiliate the informant in the name of caste within public place. It is observed that, every abuse or every utterance would not amount to intentional humiliation and insult of a person within public view. In that case it is observed that, allegations are omnibus and in general in nature. In the present case, it is seen that, there is not only utterance in the name of caste, but it is followed by action of spitting on the face of the informant. This clearly shows that it was intentionally done to humiliate and insult the person in the name of caste.

11. After having heard, this Court has gone through the FIR. In the FIR as recorded above, there is clear utterance in the name of caste. Considering all above, this Court finds that, it is not that the only name of caste is mentioned, but it is coupled with the action. It would also show that the appellant did not like that a person from lower class to advise him. For all these reasons this Court finds that, the ingredients of Section 3 (1) (r) of the Atrocities Act, prima facie, are made out in view of bar under Section 18 of the Atrocities Act. Therefore, no relief can be granted to the appellant. The criminal appeal stands dismissed.

12. Mr. Cheble, learned advocate for respondent No. 2 is appointed. The Court appreciates his efforts in preparing the argument. He shall be entitled to receive the fees as per rules through legal aid.

13. At this stage, the learned advocate Mr. Rathi for the appellant prays for continuation of interim relief granted in his favour.

14. Since there is already interim relief in his favour, the same be continued for six (06) weeks from today.

(KISHORE C. SANT, J.)

PS.B.