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

905 CRIMINAL APPEAL NO. 188 OF 2025

NANDKUMAR DNYANDEV DESHMUKH

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.....Respondents

Mr. S. J. Salunke, Advocate for the appellant
Mrs. A. S. Deshmukh, APP for the respondents/State
Mr. Dinkar Kamble, Advocate for the respondent No.2
(appointed)

CORAM : KISHORE C. SANT, J.

DATE : 09th JULY, 2025

P. C.

1. Heard the learned advocates for the parties.
2. The appellant has approached this court seeking his release on bail in the event of his arrest in connection with Crime No. 0021/2025 registered with Dharashiv (Rural) Police Station, Dist. Dharashiv, for the offences punishable under sections 115(2), 352, 3(5) of the Bhartiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(1)(c) of the Atrocities

Act.

3. Respondent No. 2 approached the police station with a complaint that on 20-01-2025 at around 08.30 in the night he was taken by the accused-present appellant to his shop on motorcycle. Son of the appellant was also present in the shop. It is alleged that there the appellant demanded to refund the amount, which he had given as hand-loan to the informant. On demand, they assaulted the informant. The present appellant abused in the name of caste and also spitted on the person of the informant. Said FIR came to be lodged on 22-01-2025 at around 11.37 pm.

4. The appellant apprehending arrest in connection with said crime approached the learned Sessions Judge. The learned Sessions Judge by his order dated 27-02-2025 rejected the bail application No. 66/2025. The appellant, is thus, before this court.

5. Mr. Salunke, learned advocate for the appellant vehemently argued that allegations taken as it is would show that no offence under Sections 3(1)(r) and 3(1)(s) is made out. Even the offence under Section 3(1)(c) is wrongly shown in the FIR. No ingredients are attracted. He submits that FIR itself show that there was a dispute on account of some amount that was given as hand-loan to the informant. Out of the said hand-loan amount, still some amount remained unpaid and it is on this a quarrel took place. The incident alleged has taken place in the shop and therefore sections 3(1)(r) and 3(1)(s) are not attracted. The trial Judge however, failed to appreciate this material aspect and has rejected the application. He also relied upon the judgment in the case of Hitesh Verma VS State of Uttarakhand and Anr¹. The Hon'ble Apex court held that merely because there is quarrel between two persons one of who happens to be a member of the scheduled caste and scheduled tribe will not attract the offence under Section 3(1)(r). It was a case over property dispute. The Hon'ble Apex Court therefore held that every dispute cannot be said to be dispute falling

¹ 2021 Cri. L. J. 1

under the Atrocities Act, unless such dispute is only for the reason that a person happens to be belonging to scheduled caste and scheduled tribe. He, thus, prays for allowing the appeal by quashing and setting aside the impugned order and further to direct release of the appellant in the event of his arrest.

6. The learned APP submits that there are statements of other witnesses, at least to support that the informant was taken by the appellant to his shop. The shop though is situated to be in private premises, still it is situated at the main road in the market place and accessible easily. The offence is thus clearly made out under Sections 3(1)(r) and 3(1)(s). So far as section 3(1)(c) is concerned, he submits that this case would be covered as the appellant spat on the person of the informant.

7. The learned advocate for respondent No.3 also supports the arguments of the learned APP.

8. In the present case, looking to the FIR and looking

the allegations as it is, this court finds that at least prima-facie case is made out to attract the ingredients of section 3(1)(c) of the Atrocities Act. As the case is made out under Section 3(1)(c), it is clear that bar under Section 18 would come into operation and no prayer for anticipatory bail can be entertained.

9. Considering above, this court finds that appeal deserves to be dismissed. Hence, the appeal stands dismissed.

10. Needless to say that the observations are only for the purpose of deciding this appeal. The learned Sessions court not be influenced in any way by the said observations.

[KISHORE C. SANT, J.]