



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 CRIMINAL APPEAL NO. 196 OF 2025

1. YALLAPPA S/O. DAMAJI GADDAMWAR
2. SAWITRI W/O. YALLAPPA GADDAMWAR

VERSUS

1. THE STATE OF MAHARASHTRA
2. SAVITA W/O. DEVANAND GAIKWAD

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Advocate for Appellant : Mr. Naik Thigle Girish K. (Through V.C.)

APP for Respondent No. 1 : Mr. S.B. Jadhav

Advocate for Respondent No. 2 : Ms. Muley Sakshi Siddhivinayak

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CORAM : KISHORE C. SANT, J.

DATE : 03.07.2025

PER COURT :

1. Heard the parties.
2. The appeal is for releasing the appellants on bail in the event of their arrest in connection with crime registered with Basmath City Police Station, District Hingoli, bearing no. 133/2025 dated 05.03.2025, for the offence punishable under Sections 115 (2), 118(1), 352, 3 (5) of the Bhartiya Nyaya Sanhita, 2024 with Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.
3. The appellants have also prayed for quashing and setting

aside the impugned order passed by the learned Special Judge, Basmathnagar, in Criminal Bail Application No. 59/2025, passed on 13.03.2025.

4. In the FIR, it is alleged that the informant / respondent no. 2 belongs to scheduled caste, she has kept bricks for construction of her house. The appellants happens to be neighbour. Appellant no. 1 – Yallappa, asked as to why the informant has kept the bricks for construction in front of his house and started abusing. The informant told that she would shift the bricks. However, appellant no. 2 also came there. She insulted and abused the informant in the name of her caste. Appellant no. 1 assaulted the informant with the help of wooden stick. The incident took place on the road. The informant then lodged the report with the police. The appellants apprehending arrest approached the learned Special Court. However, their bail application came to be rejected.

5. Learned Advocate Mr. Thigle, vehemently submits that in fact it was a pity quarrel on account of keeping the bricks in front of the house of the appellants. They are neighbours. There is no reason to abuse in the name of caste. A simple quarrel is given colour of atrocity case. There are no specific allegations that the utterances were with the

intention to humiliate or insult the member of scheduled caste. He relies on the judgment in the case of *Shajan Skaria Versus State of Kerala and Another*, **2004 SCC Online SC 2249**. He relied upon paragraph nos. 59, 60 and 80 of the said judgment. In paragraph no. 59, he submits that the Court has considered the case of Hitesh Verma and held that merely because a person happens to be belonging to scheduled caste is not a sufficient ground to attract the ingredients offence under atrocity act. Further, he submits that even otherwise the custody of the appellants is not required. He prays for allowing the appeal.

6. Learned APP for the State vehemently opposes the application. He submits that there are three eye witnesses to the incident. One of them is independent eye witness to support the case of the prosecution. There are clearly utterances in the name of caste alleged against appellant no. 2. Appellant no. 1 has also assaulted the informant and, therefore, offence is made out even against him. It is clear from the FIR itself that the offence has taken place in front of the house of these appellants. He thus, prays for rejection of the appeal.

7. Learned Advocate for respondent no. 2 (appointed) submits that even after lodging of the offence on 11.03.2025, two

unknown persons met to the informant and threatened to withdraw the case. He thus, submits that there is threat to her. If appeal is allowed, there is every likelihood of the appellants pressurizing the witnesses and the informant. She also prays for rejection of the Appeal.

8. Considering the case of Hitesh Verma, it is clear that in that it was a dispute over the land. The Hon'ble Court observed that all insult or intimidation to a person is not an offence under the Atrocity Act. Unless such insult or intimidation is on account of victim belonging to scheduled caste or scheduled tribe. In that case, the suit was filed by the accused persons before the Court against the informant. In paragraph no. 80 of the judgment, it is observed that mere knowledge about the fact that the victim is a member of the scheduled caste and scheduled tribe is not sufficient to attract Section 31 (r) of the Act. In the present case, it is specifically stated in the FIR that the informant was specifically abused in the name of caste. Though, the quarrel took place on some other count, it cannot be lost sight of fact that it was happened before the public.

9. It is also further seen that the incident is witnessed by three other persons which clearly shows that the people have watched the incident. True it is that merely that person happens to be a person to be

belonging to Scheduled Caste is not sufficient. However, at the same time behind every such quarrel there is some reason. When the quarrel is limited only to that particular issue, there is no question of attracting the ingredients of the offence. At the same time, it needs to be seen that it is coupled by utterances in the name of caste coupled by some more action certainly attracts, atleast *prima facie*, ingredients of the offence. In the present case, there is utterances in the name of caste. The informant is even assaulted by appellant no. 1. So atleast at this stage, this Court finds that the case is made out to attract the ingredients. However, though *prima facie*, case is made out this Court find that the allegation of abusing the informant in the name of caste is only against appellant no. 2. So far as appellant no. 1 is concerned, he has not given any abuses in the name of caste. Thus, this Court find that the, *prima facie*, case made out only against appellant no. 2.

10. Learned trial Court has rightly observed that the ingredients of the offence was attracted and rejected the application. This Court is of the opinion that the observations are correct only so far as appellant no. 2 is concerned. The order to the extent of applicant no.1 needs to be set aside.

11. The Criminal Appeal is partly allowed. The appeal to the

extent of appellant no. 2 stands rejected. The order of the learned Sessions Judge be modified to the extent of appellant no. 1.

12. Appellant no. 1 shall be released on bail in the event of his arrest in connection with FIR No. 133/2025 dated 05.03.2025 for the offences punishable under Sections 115 (2), 118(1), 352, 3 (5) of the Bhartiya Nyaya Sanhita, 2024 with Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, on furnishing P.R. bond in the sum of Rs. 25,000/- (Rupees twenty five thousand) with one surety in the like amount.

13. He shall not contact the informant or any of the witnesses on usual conditions. He shall attend concerned Police Station as and when called by the Investigating Officer. He shall not enter in the Basmath City, till filing of the chargesheet except for attending the Police Station. He shall furnish his address, mobile number and other contact details to the concerned Police Station.

14. Learned Advocate for respondent no. 2 is appointed. This Court appreciates her efforts in preparing the matter. She shall be entitled to receive the fees from High Court, Legal Aid Services, Aurangabad, as per Rules.

15. At this stage, learned Advocate for the appellants seeks continuation of interim relief, which is granted by this Court by order dated 25.03.2025. Since it is running from last three months, the same be continued for further period of three weeks.

(KISHORE C. SANT, J.)

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