



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

CRIMINAL APPEAL NO. 219 OF 2025

1. Ganesh S/o Asaram Thombre
Age: 45 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
2. Eknath S/o Raghunath Thombre
Age: 34 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
3. Ravindra S/o Pandharinath Thombre
Age: 32 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
4. Raghunath S/o Khushal Thombre
Age: 60 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
5. Kisan S/o Ganesh Thombre
Age: 24 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
6. Krushna S/o Digamber Shinde
Age: 30 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad
7. Bhausaheb S/o Bappasaheb Thombre
Age: 46 years, Occ: Agri,
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad

.....APPELLANT

VERSUS

1. The State of Maharashtra
(Copy to be served on Govt. Pleader
Through Pachod Police Station).
2. The Superintendent of Police,
Aurangabad
3. Anil S/o Laxman Chavan
Age: 40 years, Occ: Agriculture
R/o: At Salwadgaon, Taluka: Paithan,
Dist: Aurangabad

.....RESPONDENTS

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Mr. R. P. Mote, Advocate of Appellants
Mr. S. M. Ganachari, APP for Respondent-State
Mr. M. L. Wankhede a/w Mr. J. S. Jain, Advocate for
Respondent No.3 (Through V.C)

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CORAM : SHAILESH P. BRAHME, J.

DATED : 08TH MAY, 2025

PER COURT :-

- . Heard both sides
2. This appeal is directed against judgment and order dated 26.03.2025 passed in Criminal Bail Application No.15 of 2025, rejecting pre-arrest bail of the appellants.
3. Respondent No.3 lodged report on 15.03.2025, which is registered as Crime No.0113/2025 registered with Pachod Police Station, Dist. Aurangabad for the offence punishable under Sections 118(1), 115(2), 189(1), 189(2), 191(2), 191(3), 190, 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections

3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Appellants are resident of village Salwadgaon. Informant is also resident of same village. Considering cross complaint, there is reason to infer that they are knowing each other even by caste. Informant has mentioned his caste at the beginning of the complaint.

5. It is stated in the report of the informant that appellant Ganesh demanded country liquor and on refusal by the informant, he become furious and abused him on caste. Other appellants assembled there and started beating and threatening informant and even his wife was also not spared. Informant, his wife and nephew sustained injuries.

6. Learned Counsel Mr. Mote for the applicant submits that offence under the provisions of the Prevention of Atrocities Act are not attracted, because caste of the appellants was not mentioned in the First Information Report. There was no *mens rea* surfacing from the police papers. It is further submitted that it's not a case of intentional insult on the caste. It's a false implication. No independent witnesses are available and it was not within public view. It is submitted

that First Information Report against appellant is counter blast to First Information Report in Crime No.112/2025, which was lodged by appellant Ravindra. Appellant Ravindra was brutally assaulted by informant and his companions. The investigation is under way.

7. Learned Counsel further submits that injuries on the informant are minor in nature, MLC certificate does not corroborate prosecution cases. Reliance is placed on following judgments:

- i. *Vinod and Others Vs. State of Maharashtra and Other, Criminal Appeal No.378 of 2022*, dated **11.08.2022**.
- ii. *Pradeep Ramchandra Ubale Vs. The State of maharashtra, Criminal Appeal No.1045 of 2016*, dated **12.05.2020**.
- iii. *Sandip Machindra Patil Vs. The State of maharashtra, Criminal Appeal No.56 of 2020*, dated **26.02.2020**.
- iv. *Mahesh Sakharam Patole Vs. The State of Maharashtra, Criminal Application No.1318 of 2009*, dated **21.04.2009**.
- v. *Sham Bhagwanrao Ingale and Anr Vs. The State of Maharashtra, Criminal Appeal No.875 of 2018*, dated **25.04.2019**.
- vi. *Vasantrao S/o Madhavrao Vhadgir and Ors.*

Vs. The State of Maharashtra, Criminal Appeal No.1084 of 2019, dated 05.12.2019.

vii. ***Jagdish Sajankumar Banka Vs. State of Maharashtra and Ors, Criminal Appeal No.1258 of 2022, dated 10.03.2023.***

viii. ***Shashikant Ramhari Tambe and ors. Vs. The State of Maharashtra, Criminal Application No.2054 of 2008, dated 16.07.2008.***

8. Learned APP Mr. S. M. Ganachari relies on affidavit-in-reply. He tenders on record papers of investigation. He submits that the statement of the eye witnesses Nandu Baburao Chavan, Laxman Vaman Chavan and Ajay Ashok Chavan are corroborating prosecution theory. Injury certificate of informant is also consistent. Appellant and witnesses are knowing each other because they are from the same place.

9. Respondent No.2 supports learned APP. It is submitted that appellants are mighty people and always creating terror in the vicinity. There is rivalry against informant and his family members.

10. I have considered rival submissions of the parties. I have gone through statements of Nandu, Ajay and Laxman as

referred by the learned APP. They are eye witnesses, presence of the appellants at the spot is evident. Spot of the incident is a public place within public view. Appellant and the witnesses are from same place and knowing each other. First Information Report refers to caste of the informant, First Information Report lodged by Ravindra i.e. Crime No.112/2025 refers to his caste. First Information Report is not encyclopedia, therefore, submission of the appellant that Section 3 is not attracted for not mentioning of caste in First Information Report cannot be approved.

11. A spot Panchnama shows that incident took place within public view at about 08:00 pm. Apparently, Section 3(1)(R) and 3(1)(S) are attracted. Injury certificates of informant and witness Ajay also corroborate prosecution story, though, injuries are simple in nature. There is clinching material on record to dislodge the submission that incident is imaginary and appellants are being falsely implicated in the offence.

12. First Information Report discloses specific rule against each of the appellant. Informant's wife has also been outraged and assaulted by appellant Ravindra. Eknath stated

to have used stick. Ravindra is alleged to have abused informant's wife and beat her. Other accused also participated in the crime. Nephew of the petitioner is assaulted. All appellant are acting with common intention. The informant and his family members have been targeted by them. There is very strong *prima facie* case against them and bar created under Section 18 of the Prevention of Atrocities Act does not permit this Court to grant any protection to them.

13. Investigation is under way, their custodial interrogation is needed. Cross complaint filed by appellant Ravindra discloses rivalry between the groups. Therefore, assaulting and abusing was with the purpose and motive. At this stage, it cannot be inferred that no offence has been committed.

14. I have gone through the judgments cited by the appellant. The principle laid down therein cannot be disputed. It is suffice is to mention that facts and circumstances of each case are different. Considering distinguishable facts, I hold that those judgments cannot be made applicable at this stage.

15. I have gone through impugned judgment and order,

which does not disclose any error of jurisdiction or perversity.

I find no merit in the appeal, hence, Criminal Appeal is dismissed.

(SHAILESH P. BRAHME, J.)

Rushikesh/2025