



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

CRIMINAL APPEAL NO. 409 OF 2025

1. Sunita Ananda Devsarkar
2. Dnyaneshwar Ramesh Rao Devsarkar .. Appellants

Versus

1. The State Of Maharashtra
2. Akash Ananta Waghmare .. Respondents

Mr. Joydeep Chatterji, Advocate h/f Mr. Akshay D. Kulkarni, Advocate for the Appellants.

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

Mr. M. M. Parghane, Advocate for Respondent No. 2.

AND

CRIMINAL APPEAL NO. 374 OF 2025

1. Rajesh Ramesh Rao Kadam
2. Yogesh Ramesh Deosarkar
3. Nandkishor Anandrao Deosarkar .. Appellants

Versus

1. The State Of Maharashtra
2. Akash Ananta Waghmare .. Respondents

Mr. Joydeep Chatterji, Advocate h/f Mr. Akshay D. Kulkarni, Advocate for the Appellants.

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

Mr. M. M. Parghane, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 19th JUNE, 2025.

P C. :-

. Heard learned advocate for the appellants, learned A.P.P. and learned advocate for respondent No. 2.

2. Criminal Appeal No. 374/2025 is filed by accused Nos. 1, 2 and 3 seeking regular bail. They are arrested on 10.03.2025. They were sent to P.C.R. till 13.03.2025 and since then they are in M.C.R. Another Criminal Appeal No. 409/2025 is filed by accused Nos. 4 and 6 as per the charge-sheet. They have approached seeking bail in the event of their arrest. A charge-sheet is also filed on 08.05.2025. The appellants are seeking bail in connection with offence registered with Police Station Himayatnagar, Nanded for the offence punishable under Sections 333, 118 (2), 189(2), 191 (2), 189 (9), 324 (4), 296, 352, 351 (2) of the Bhartiya Nyaya Sanhita, 2023 (for short "B.N.S.") and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short "Atrocities Act").

3. The informant in the FIR alleged that, the present appellants and other accused and the persons with him and relatives assaulted him. An incident started on 08.03.2025 where accused No. 3 namely

Nandkishor asked the informant as to why he abused him. On that, there was a scuffle. After some time the quarrel was settled at the intervention of one Devidas Waghmare. However, on 09.03.2025 it is the informant who went to the accused persons to ask as to why they beaten him. At that time, again scuffle took place. The informant himself stated that, he and his friends beaten accused persons. On that, the accused No. 3 namely Nandkishor called other accused persons and thereafter, some quarrel again took place in which three persons received injuries. It is alleged that, the said injuries were received in an assault by the accused in which Sanjay Gaikwad received injuries to both his hands and his head. One Abhijit received blunt trauma injury. The accused Sunita bitten the arm of mother of the informant. One relative also bitten Trishala Gaikwad. It is further alleged that, all the accused persons abused in the name of caste and they also damaged the motorcycle of the informant.

4. Initially Section 3(1)(t) of the Atrocities Act was not mentioned in the FIR, however, while filing charge-sheet the said offence came to be added on the basis of one statement recorded after two months of the incident that, in an incident when the electricity was disconnected for some time, some of the persons thrown stones on the statue of the Dr. Babasaheb Ambedkar and they also smashed garland of the statue.

On FIR, the appellants came to be arrested in Criminal Appeal No. 374/2025. They filed application for bail, however, the same came to be rejected by order dated 21.05.2025. The application for anticipatory bail of the appellants in Criminal Appeal No. 409/2025 came to be rejected by order dated 24.03.2025. Thus, the appellants in both the criminal appeals are before this Court.

5. The learned advocate Mr. Chatterji for the appellants vehemently argued that, in fact, no case is made out against any of the accused as no specific role is attributed against any of the accused persons. Initially Section 3(1)(t) of the Atrocities Act was not shown in the FIR, however, only on the basis of one solitary statement, the said offence came to be added while filing the charge-sheet. There is also counter FIR lodged by accused No. 3 namely Nandkishor in which the informant and other accused are already released on bail by this Court by order dated 02.05.2025. From the FIR itself it is clear that, on 09.03.2025 it is the informant himself was aggressor who started assault. What followed was only reaction thereafter. To make it serious provisions of Atrocities Act are added. The grievous injury is only to one person i.e. contusion to left forearm (left displaced mid shift ulna fracture) and another injury is Right wrist (5th PIP Joint dislocation). He thus submits that, though the allegations are made those are not

specific. He submits that, no offence is, in fact, made out under the Atrocities Act. Offence under B.N.S. except Sections 118 (2) and 333 of the B.N.S. punishment is only upto seven years and fine. He thus submits that, clearly a case is made out to grant bail to the appellants in Criminal Appeal No. 374/2025 and to grant anticipatory bail to the appellants in Criminal Appeal No. 409/2025.

6. The learned A.P.P. vehemently opposes the appeals. He submits that, there are grievous injuries caused to Sanjay. There are two ladies who were assaulted by the accused persons. He submits that, no case is made out to grant bail.

7. The learned advocate Mr. Parghane for respondent No. 2 also vehemently argued that, when clear case is made out, no relief can be granted to the appellants.

8. This Court has gone through the injury certificate and the statements. In none of the statements it is specifically alleged that as to which of the accused persons abused in the name of caste. The allegation is that they abused in chorus. From the statement of injured Sanjay Gaikwad it is seen that, the allegations of assault which caused grievous injury at the hands of Shankar Gajanan and son of Gajanan who are presently not before the Court. Thus, there is no specific

allegation against any of the appellants before this Court. This Court finds that, both the appeals deserve to be allowed.

9. Both the criminal appeals are allowed. The order passed by the learned Additional Sessions Judge, Bhokar dated 24.03.2025 impugned in Criminal Appeal No. 409/2025 and order passed by the learned Additional Sessions Judge, Bhokar and Special Judge, Bhokar dated 21.05.2025 impugned in Criminal Appeal No. 374/2025 are quashed and set aside.

10. The appellants in Criminal Appeal No. 374/2025 be released on bail in connection with FIR 0052 for the offences punishable under Sections 333, 118 (2), 189(2), 191 (2), 189 (9), 324 (4), 296, 352, 351 (2) of the B.N.S. and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act on furnishing P.R. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

11. The appellants in Criminal Appeal No. 409/2025 be released on bail in the event of their arrest in connection with FIR 0052 for the offences punishable under Sections 333, 118 (2), 189(2), 191 (2), 189 (9), 324 (4), 296, 352, 351 (2) of the B.N.S. and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act on furnishing P.R. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

12. The appellants in both the criminal appeals be released on following conditions :

(i). The appellants shall not enter the village Waghi till the trial is over.

(ii) They shall not try to contact any of the witnesses and try to pressurize them.

(iii) They shall give their residential address, mobile number and other contact details with the concerned I.O./police station.

13. With this, the Criminal Appeals stand disposed of.

(KISHORE C. SANT, J.)

PS.B.