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

930 CRIMINAL APPEAL NO. 423 OF 2025

Ashok Daoji Gaikwad

....APPELLANT

VERSUS

1. Gajanan Namdev Mohite
2. Tanaji Gajanan Mohite
3. The State of Maharashtra,
Thr. Police Inspector,
Islampur Police Station,
Tal. Kinvat, Dist. Nanded

....RESPONDENTS

.....

Mr Arvind G. Jadhav, Advocate for Appellant

Mr P. P. Uttarwar, Advocate for Respondent Nos.1 & 2

Mr D. B. Bhange, APP for Respondent No.3/State

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 15 OCTOBER 2025

P. C. :

1. By this application, the Appellant is seeking cancellation of anticipatory bail granted to respondent Nos.1 and 2 and is praying for quashing and setting aside the order dated 05/05/2025 passed in Bail Application No.311/2025 wherein respondent Nos.1 and 2 were granted anticipatory bail by the learned Special Judge, Nanded in relation to Crime No.35/2025, registered with Islapur Police Station, Tq. Kinwat, Dist. Nanded, for the offence punishable under Sections

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115(2), 352, 351(2), 351(3), 189(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrcities Act').

2. According to the appellant/informant, he had filed complaint before the Islapur Police Station against the appellant/accused persons stating therein that on 31/03/2025, at 3:00 p.m., some construction of road was going on in his locality. Since work was of poor quality, he tried to complain in respect of said work to respondent No.1/Sarpanch of village, namely, Gajanaj Namdev Mohite. However, quarrel took place between them and accused/respondent No.1 alleged to have hurled abuses by referring to caste of appellant/informant. Respondent No.1 also alleged to have assaulted appellant with fists blows. Thereafter, when niece of informant, namely, Soni @ Rama came there to pacify said quarrel, other accused came there and outraged her modesty. Thereafter, relatives of the informant came there and the accused persons also alleged to have assaulted them with kicks and fists blows and abused them on the basis of caste, and therefore, the FIR came to be registered against respondent Nos.1 and 2.

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3. Respondent Nos.1 and 2/accused had preferred Criminal Bail Application No.311/2025 for grant of anticipatory bail in the aforesaid Crime before the learned Special Judge. Learned Special Judge, Nanded, by order dated 05/05/2025 was pleased to observe that accused person therein have not committed alleged offence of abusing on caste against informant and as the possibility of false implication of accused cannot be ruled out, bar under Section 18 of the Atrocities Act is not applicable. Accordingly, learned Special judge granted anticipatory bail to respondent Nos.1 and 2/accused, thereby confirming the interim order dated 08/04/2025.

4. Learned Advocate for the appellant submits that bail granted to respondent Nos.1 and 2 is sought to be challenged on the ground that the impugned order is passed by the learned Special Judge by observing that there are no criminal antecedents against accused persons and according to him, respondent No.2 is having criminal antecedents, and therefore, the impugned order is liable to be quashed and set aside. He also submits that there is bar under Section 18 of the Act and as such, learned Special Judge ought not to have been granted bail to respondent Nos. 1 and 2. He also submits that the learned Special Judge ought to have considered the gravity of offence while

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passing the impugned order. Accordingly he prays for cancellation of bail granted to the respondent Nos.1 and 2.

5. Per contra, learned Advocate for respondent Nos.1 and 2/accused vehemently opposed the appeal and states that the learned Special Judge has rightly observed in the impugned order that respondent Nos.1 and 2 have not committed alleged offence and no case is made out against them. As such, he supported the impugned order and prays for dismissal of the present appeal.

6. I have heard the submissions made by the learned Advocates for the respective sides and gone through the record available with the Court.

7. The Hon'ble Apex Court has observed in **Ankit Mishra Vs. State of Madhya Pradesh, 2025 SCC OnLine SC 809** and in **Daulat Ram and others Vs. State of Haryana, (1995) 1 SCC 349** that very cogent and overwhelming circumstances are necessary for an order directing cancellation of the bail already granted.

8. The parameters which are required to be considered while deciding application for cancellation of bail are different than deciding grant of bail since it directly interferes in the right of liberty of the

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accused under Article 21 of the Constitution of India. Mere non-mentioning of criminal antecedent against one of the accused is not a ground for cancellation of bail granted by Court. Since there are no valid and strong grounds brought before this Court by the appellant, no case is made out for cancellation of bail. Moreover, the investigation in the crime is already over and prima facie no case is made out against respondent Nos.1 and 2 of commission of alleged crime for their custodial interrogation. Therefore, it would be unjust and improper to cancel the bail of respondent Nos.1 and 2, granted by the Sessions Court. As no strong overwhelming circumstances are shown by appellant, I am not inclined to consider the instant appeal for cancellation of bail. Accordingly the present appeal is rejected.

[SUSHIL M. GHODESWAR, J.]

sjk