



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

ANTICIPATORY BAIL APPLICATION NO. 1074 OF 2025

PAPPU ALIAS VIJAY SHIVAJI KADAM,
ABHIJIT VISHVAS KADAM,
DADA @ RAMESHWAR HANSRAJ GADAKH,
RUPESH RAMESH KURHE,
PINU @ AJITKUMAR BAJIRAO CHAVAN,
BALYA CHAHAWALA @ BALASAHEB SUBHASH
KALHAPURE, AND
HIRAMAN NAMDEV DHUS.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Shri Rahul R. Karpe, Advocate for the Applicants.
Shri S.B. Narwade, APP for Respondent Nos.1 and 2/State.
Ms.Sonawane Sunita G., Advocate for Respondent No.3/
Informant

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CORAM : ADVAIT M. SETHNA, J.

DATE : 06 August 2025

P. C. :-

1. Heard Mr.Karpe, the learned Advocate for the Applicants, Mr.Narwade, the learned APP for the Respondents/ State and Ms.Sonawane, the learned Advocate for Respondent No.3/Informant. With their assistance, I have perused the FIR, the record available with the Court as also the case diary/ investigation material shown to the Court.

2. In these proceedings, the Court had, by an order dated 2 July 2025 issued Notice to the respondents, returnable on 15 July 2025. Thereafter, the matter was listed on a few occasions, after which, it has come up for hearing today. The proceedings relate to Crime No.0395/2025 registered by the Rahuri Police Station, Dist. Ahilyanagar. The FIR has been lodged on 4 April 2025 at 23.21 hours. The occurrence of the alleged offence is shown on 26 March 2025 at 22.00 hours under Sections 74, 115(2), 118(1), 189(2), 190, 191(1), 324(4), 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. There are 19 persons arrayed as Accused in the FIR, out of which, Accused Nos.3, 5, 6, 9, 10, 11 and 19 are the Applicants before the Court. Accused No.2 i.e. one Sudhir Tikkal has been enlarged on regular bail by the Additional Sessions Judge, Ahmednagar, by an order dated 30 July 2025. The Accused Nos.16 and 17 have been protected by the learned Additional Sessions Judge, Ahmednagar, vide order dated 31 July 2025.

3. Briefly, from the FIR, it appears that on 26 March 2025, a commotion took place in the said village. Thereafter, the Applicants have gathered in front of the house of the Informant and pelted stones. The Applicants outraged the modesty of the Informant and further assaulted her with a stick on her right hand. The Applicants have also outraged the modesty of the daughter of the Informant and damaged the household utensils, vehicles owned by the Informant. The Applicants have also abused the Informant based on her caste and in the said incidence, somebody has stolen the amount laying on the electric board in the house of the Informant. It is also alleged that the Applicants forcibly snatched the golden ring worn by the Informant.

4. At the outset, as submitted by Mr.Karpe, it would be relevant to refer to the complaint lodged on the same date i.e. 26 March 2025 at the night of 9:20 hours by the Informant one Satyajit Chandrashekhar Kadam. The Accused No.2 in the said FIR, happens to be the son of the Informant in the FIR lodged in the present proceedings. When the Informant in that FIR i.e. one Satyajit Chandrashekhar Kadam tried to intervene in the dispute, there was an assault with deadly weapon on the head of the said

Informant. As a counter blast to the said FIR, Mr.Karpe would urge that the present complaint is lodged on the same date i.e. 26 March 2025 at night at 10:00 hours. However, the FIR reporting the said complaint is lodged on 4 April 2025 at 23:21 hours after unexplained inordinate delay of about 9 days.

5. As far as the allegations against the present Applicants in the FIR in the present proceedings are concerned, it is to be noted that the names of the 19 Accused persons have been spelt out in the present FIR. There is apparently no specific role attributed to the present Applicants so as to constitute any specific alleged offences as stated in the FIR.

6. Mr.Karpe would urge that the present FIR would indicate that the specific role is attributed to the Accused Nos.1 and 2, who used sticks to assault the Informant on her right hand as also allegedly assaulted the minor daughter of the Informant. As far as the presence of the other Applicants / Accused persons on the spot of the incident is concerned, there is evidently an inconsistency in what is disclosed in the FIR. This is inasmuch as the Applicants were absent at the spot even as revealed by the panchnama prepared by the investigating agency. From the CCTV footage installed at the Primary Health Centre (Hospital),

it appears in the said panchnama, which is transcribed from 21:26 to 22:24 pm, that the persons whose names are mentioned in the said panchnama are seen at such place and not at the spot where the alleged incidence took place. The Trial Court has also recorded a specific finding to the effect that from the panchnama prepared at the behest of the prosecution, the Applicants were not present at the spot of the incident.

7. It also appears from the case diary furnished by the learned APP that the mobile location from the pen drive panchnama dated 16 April 2025 would indicate that the Applicants / Accused persons were not on the spot of incident, but were at the Omkar Hospital where the said Satyajit Kadam, i.e. the Informant in the previous complaints/FIR was admitted. Thus, there is an inconsistency with regard to the very presence of the Applicants on the spot of the alleged incidence as noted in the FIR. In fact, the statement recorded during the investigation of one of the witnesses would also corroborate the fact that the Accused persons in the present FIR were at the Omkar Hospital at Rahuri Sugar Factory, which is at a distance of about 7 to 8 kms. from the spot of the alleged incident. Thus, clearly a benefit of doubt ought to be given to the Applicants in such facts and

circumstances. There are statements also relied on by the prosecution to support the informant which appear to clearly conflicting with the other witness statements in this regard. This therefore has to be tested during trial and not at the preliminary stage of these proceedings.

8. As far as the injuries inflicted on the Informant are concerned, the injury certificate of the Rural Hospital, Rahuri which records examination of the Informant on 27 March 2025 at about 1:50 pm would reveal the physical assault by legs and fists on abdomen, back. No significant injury is noted and the injuries suffered by the Informant are stated to be simple in nature.

9. It is significant to note that the Sessions Court has released the Accused No.2 on regular bail by the order dated 30 July 2025. Though there is an allegation that the said Accused was armed with a deadly weapon and that he had snatched the golden ornament worn by the Informant, the Court observed that there is nothing to substantiate such allegations. There are cross complaints culminating in cross FIRs as noted above, which at this stage would have some bearing in the given factual scenario. Nothing is recovered from the possession of the said Accused No.2. On such grounds, he was enlarged on bail. Similarly,

there is no allegation in particular *qua* the present Applicants in these proceedings.

10. In fact, as Mr.Karpe would point out, there is some substance in his contention that that the Applicants in the present proceedings, stand on a better footing. A bare perusal of the FIR would indicate that the present Applicants have no role to play in the alleged assault on the Informant by use of the alleged weapons which is attributed to accused Nos.1 and 2, out of which, accused No.2 has been enlarged on bail, as noted above in the said order, which would have some bearing on the present proceedings, at this preliminary stage. As far as the allegation with regard to outraging modesty of the informant and/or her daughter is concerned, there appears to be no mention and/or role of the present Applicants so as to invoke the ingredients of the offences alleged in the FIR in that regard against the present Applicants. It is also to be noted that there is no material in the FIR and/or that produced by the prosecution which would even remotely connect the Applicants with the allegations under Sections 8 and 12 of the POCSO Act, which are being invoked in the FIR *qua* the present Applicants. In fact, the prosecution through learned APP draws attention of the Court to the

statement of the victim recorded on 2 May 2025 which also does not make any reference to the present Applicants / Accused persons in any manner, which reinforces that the allegations in the FIR do not specifically point at these Applicants but are vague and omnibus.

11. Mr. Narwade would take serious objection to the grant of any relief to the Applicants inasmuch as the provisions under Sections 3(1), (r), (s), (w), 3(2) and 3(4) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'The Atrocities Act') are invoked against the Applicants /Accused. In this regard, he would submit that there is clear bar under the provisions under Section 18 of the Atrocities Act in regard to applicability of Section 438 of the Code of Criminal Procedure/ Section 482 of the BNSS in a case involving arrest of any person on accusation of an offence committed under this Act.

12. However in the above context, there is substance in the submission of Mr. Karpe that the said Section 18 referred to by Mr. Narwade would have no application at all in the given facts and circumstances. Even if there is an allegation in the FIR with regard to some casteist words used, the usage of such

words/ remarks is in chorus, which cannot be attributed to the Applicants in any manner whatsoever, also, considering the fact that their very presence at the spot of the alleged incidence is very much shrouded under doubt. There is nothing in the FIR to indicate even *prima facie* that the accused persons/ present Applicants were aware about the social status of the Informant belonging to a lower caste. In the absence of such specific assertion and/or allegation, no offence resulting in insult and/or humiliation against the alleged caste, can be made out, so as to attract the punishment under provisions of Section 3 and thereby, the provisions of Section 18 of the Atrocities Act.

13. Mr. Karpe in support of his submissions, has relied on certain decisions including those of our Court in this regard, which are not referred to in detail at this stage as there would be no quarrel on the principles. Mr. Karpe has *prima facie* demonstrated that in the given factual matrix as noted above, the provisions of the Atrocities Act constituting offences qua the Applicants are apparently not made out. Ms. Sonawane, learned Advocate for the Informant would support and adopt the submissions of the Ld APP. Her contentions on the incorrect timings recorded in the FIR appear to be based on hearsay, not

backed by any concrete material at this stage to inspire confidence.

14. In the above facts and circumstances, the Applicants have demonstrated a *prima facie* case for grant of Anticipatory Bail. Also, there is no justification coming forward from the prosecution to necessitate physical custody of the Applicants before this Court. The Applicants have undertaken to fully cooperate with the investigation on any terms and conditions as the Court would deem fit and proper to impose in the given factual complexion.

15. Considering the above, the Anticipatory Bail Application deserves to be allowed by passing the following order:-

ORDER

(i) In the event of arrest of the Applicants in connection with C.R. No.0395/2025 registered with Rahuri Police Station, Dist. Ahilyanagar for the offences punishable under Sections 74, 115(2), 118(1), 189(2), 190, 191(1), 324(4), 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, the Applicants are directed to be released on bail on furnishing PR

bond in the sum of Rs. 20,000 (Rupees Twenty Thousand Only) each with one solvent surety in the like amount.

(ii) The Applicants shall attend the concerned Police Station as and when required by the Investigating Officer until the filing of the charge sheet. They are further directed to co-operate in the investigation.

(iii) The Applicants shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned Police Station. If there is any change in the contact details, the same shall be immediately informed to the concerned Police Station.

(iv) The Applicants shall not leave the jurisdiction of the competent Court without prior permission of the Court subject to further orders / until filing of the charge-sheet.

(v) The Applicants shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.

16. **The Anticipatory Bail Application is allowed in the above terms.** However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this Application.