



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

CRIMINAL APPEAL NO. 611 OF 2024

1. Konta @ Kantabai W/o Ramesh Bhosale,
Age: 57 years, Occu: Household & Agri
R/o Ieet, Tq. Bhoom, Dist. Dharashiv.
2. Pallavi W/o Anna @ Annasaheb Bhosale @
Sandhya D/o Ramesh Bhosale,
Age: 32 years, Occu. Household & Agri
3. Sneha Ramesh Bhosale @ Sneha Roshan Bhosale
Age: 23 years, Occu. Household & Agri
R/o. Ieet, Tq. Bhoom, Dist. Dharashiv.**APPELLANTS**

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Washi,
Tq. Washi, Dist. Dharashiv.
2. Chitravati Dada Thorat,
Age: 50 years, Occu: Agri,
R/o Ieet, Tq. Bhoom, Dist. Dharashiv.**RESPONDENTS**

**WITH
CRIMINAL APPEAL NO. 612 OF 2024**

1. Roshan S/o Ramesh Bhosale,
Age: 28 years, Occu. Agri
R/o Ieet, Tq. Bhoom, Dist. Dharashiv

2. Baba S/o Ramesh Bhosale,
Age: 38 years, Occu. Agri
R/o Ieet, Tq. Bhoom, Dist. Dharashiv
3. Ramesh Limba Bhosale,
Age: 60 years, Occu. Agri
R/o Ieet, Tq. Bhoom, Dist. Dharashiv**APPELLANTS**

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Washi,
Tq. Washi, Dist. Dharashiv.
2. Chitravati Dada Thorat,
Age: 50 years, Occu: Agri,
R/o Ieet, Tq. Bhoom, Dist. Dharashiv.**RESPONDENTS**

....

Mr. S. G. Kawade, Advocate for the Appellants in both Appeals
Mr K. K. Naik, APP for Respondent No.1 – State
Ms S. K. Doke, Advocate for Respondent No.2 in both Appeals

....

CORAM : Y. G. KHOBRAGADE, J.**RESERVED ON : 05.02.2025****PRONOUNCED ON : 12.02.2025****ORDER :-**

1. In both these Appeals, the Appellants / accused have invoked jurisdiction of this Court under sub section 2 of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and challenged the order dated 27.06.2024 passed by the Special Judge, Bhoom, Dist. Osmanabad in Criminal Bail Application No.84 of 2024 and 85 of 2024, thereby refused to

grant anticipatory bail. The Appellants further prayed for pre-arrest bail in Crime No.0158 of 2024 registered on 06.05.2024 with Washi Police Station Tq. Washi Dist. Dharashiv for the offences punishable under Section 447, 354, 323, 504, 506(2) read with Section 34 of IPC and Section 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(f), 3(1)(g) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Needless to say that, on 10.07.2024, this Court (Coram: Shivkumar Dige, J.) passed an order in both these Appeals and enlarged the accused in both these Appeals on Anticipatory Bail on execution of PR and SB of Rs.20,000/- each with certain conditions. During the course of argument, it has brought to the notice of this Court that, during the course of investigation, the accused persons co-operated with the Investigation Agency and on concluding investigation, a charge-sheet already filed before the learned Special Court as against the Appellants / accused in Crime No.158 of 2024 under charge-sheet No.87 of 2024 dated 02.11.2024.

3. Having regard to the submissions on behalf of both the sides, I have gone through the record. On face of record it *prima*

facie appears that, initially, the Respondent No.2 / Informant had filed a Criminal Misc. Application No.10 of 2024 under Section 156(3) of Cr.PC. before the learned Special Judge, Bhoom and prayed for directions for further investigation in the complaint lodged by her for the offences under Section 447, 354, 323, 504, 506(2) read with Section 34 of IPC and Section 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(f), 3(1)(g) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. On 29.05.2024, the learned Special Judge under the Atrocities Act passed an order and directed the concerned Police Station to register the crime. On the basis of said directions, a Crime No.0158 of 2024 registered with Washi Police Station against the present Appellants.

4. On perusal of F.I.R, it appears that, on 07.08.1996, the Informant's husband Shri Dada Thorat purchased the land admeasuring 0 Hectar 60 R out of Gut No.155/B under the registered Sale Deed No.1005/1996. Thereafter on 21.02.2012, her son namely Shri Ganesh Dada Thorat, again purchased 0 Hectar 31 R land out of Gut No.155/B under registered sale deed No.2242/2012. Since then said land is in possession and under cultivation possession of the Informant. However, the accused in order to dispossess the informant

from said land obstructed for cultivation of the land. The Accused No.3 Ramesh Limba Bhosale, abused her on her caste and threatened her by saying that it is his farm and he would not allow her to stay in the village. Therefore, her son asked the accused persons to trace out his land but the accused No.1, Roshan Ramesh Bhosale abused her son in filthy language and on caste. So also, the accused persons torn her blouse and issued life threats. The accused Nos. 4 to 6 pressed her neck and assaulted her, due to which she sustained injuries. The Accused No.1 seen the incident and separated them.

5. During the course of argument, it is pointed out that the accused No.1 Roshan Ramesh Bhosale also purchased 1 H 21 R land out of Gut No.155/B under sale deed dated 06.07.2022. Therefore, it appears that, the accused No.1 as well as the Informant and her son Ganesh Dada Thorat are joint owners of field Gut No.155/B mouja Ieet, Tq. Bhoom, Dist. Dharashiv. The Respondent No. 2 / Informant is belonging to SC community and the Appellants / accused belong to upper caste.

6. Indeed, the incident of abusement on caste to the Respondent No.2 / Informant appears to be occurred in the

agriculture field. The contents of F.I.R., does not reveal that, the incident of abuse took place in public view. Therefore, as per the law laid down in case of *Prathvi Raj Chauhan V. Union Of India, (2020) 4 SCC 727 ; Hitesh Verma V. State of Uttarakhand and Another, (2020) 10 SCC 710* and Judgment dated 31.01.2025 passed by the Hon'ble Supreme Court in case of *Criminal Appeals arising out of Special Leave Petition (Criminal) Nos.8778-8779 of 2024 Karuppudayar-vs-State Rep., By the Deputy Superintendent of Police, Lalgudi Tricy*, if the incident has not taken place within the public view about abusing the person of Scheduled Castes and Scheduled Tribes community, Section 18 and 18(A) of the Atrocities Act does not create bar.

7. Needless to say that, the alleged incident of abuse on caste to the Respondent No.2 / Informant appears to be occurred in the agriculture field but contents of F.I.R., does not reflect about incident of abuse on caste took place in public view or the public witnessed said incident. During the pendency of both these Appeals, the accused in both the Appeals are enlarged on anticipatory bail and they co-operated with the Investigating Officer. There is no complaint about tampering of prosecution witness as on date and the charge-sheet is already filed. Therefore, to my mind, the interim order dated

10.07.2024 passed by this Court needs to be extended till the conclusion of the trial. In view of above, I proceed to pass the following order:

ORDER

- (i) Criminal Appeal No.611 of 2024 and Criminal Appeal No.612 of 2024 are allowed.
- (ii) The impugned order dated 27.06.2024 in Criminal Bail Application No.84 of 2024 and 85 of 2024 passed by the learned Special Judge Bhoom are hereby quashed and set aside.
- (iii) The interim order dated 10.07.2024 passed by this Court shall continue till conclusion of trial in Crime No.0158 of 2024.
- (iv) Accordingly, both the Appeals are disposed off.

[Y. G. KHOBRAGADE, J.]