



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

CRIMINAL APPEAL NO.494 OF 2025

**BALAJIRAO KISHANRAO GADHE
VERSUS
THE STATE OF MAHARASHTRA.**

**AND
CRIMINAL APPEAL NO.475 OF 2025**

**DR. RAJENDRA PUNJARAO KADAM
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER.**

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Shri V.D. Sapkal, Senior Advocate i/by Shri Sandip R. Sapkal,
Shri A.S. Gadekar and Shri R.N. Patil, Advocates for the
appellants.

Shri Sunil B. Jadhav, APP for respondent No.1/ State.

Ms. Maya R. Jamdhade, Advocate for respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 03 October, 2025

P. C. :-

1. By these appeals, the appellants pray for grant of
anticipatory bail in connection with Crime bearing FIR
No.192/2025 registered on 17.05.2025 with Vimantal Police
Station, Nanded, District Nanded, for offences punishable under

Sections 119(1), 329(3), 189(2), 190, 115(2), 352, 351(2), 351(3) of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act').

3. Respondent No.2/ informant lodged the said FIR alleging that on 20.03.2025 at about 09:50 pm in evening, when the appellant along with his son Vinod were closing their shop Jai Maharashtra Water Servicing, at that time, the present appellants along with other 30 persons came there and the appellant (Dr. Rajendra Kadam) slapped the informant. Both the appellants are alleged to have abused the informant by referring to his caste and at that time, the appellant (Dr. Rajendra Kadam) took away Rs.930/- from the informant's pocket and also threatened that if the informant does not vacate the plot, he will kill him and his family members. At that time, the informant called police by dialing 112 toll free number and the police came at the spot. Thereafter, the informant went to the Police Station and he was referred to hospital for medical examination. Though the informant visited the Police Station on 21.03.2025, however, his complaint was not recorded. Thereafter, after persuasion with

higher police authorities, the complaint was registered on 17.05.2025.

4. The appellant (Dr. Rajendra Kadam) along with other co-accused persons filed Criminal Bail Application No.463/2025 before the learned Additional Sessions Judge, Nanded. However, the said application to the extent of appellant (Dr.Rajendra) came to be rejected vide order dated 02.06.2025. Similarly, the appellant (Balajirao Gadhe) also filed Criminal Bail Application No.503/2025, however, his application also came to be rejected by order dated 24.06.2025. Hence, these appeals praying for anticipatory bail.

5. Learned Senior Advocate Shri Sapkal appearing for the appellants submitted that on 17.03.1987, the appellant (Dr.Rajendra) had purchased the property situated in Survey No.43 admeasuring 120x30 feet at village Sangavi (Bk), Taluka and District Nanded vide registered sale deed from Madhukar Donglikar and Pramod Mahajan. Accordingly, mutation entry was recorded in the name of appellant (Dr. Rajendra) and the concerned Gram Panchayat also gave number as 355 and the said property was allotted CTS No.9479. Thus, the appellant

(Dr.Rajendra) is owner and in possession of the said plot. According to learned Senior Advocate, one Govind Pawar executed sale deed of the said plot in favour of the informant, when said Govind Pawar has no right over said plot. Being aggrieved by this sale deed executed on 28.03.2012, the appellant (Dr.Rajendra) filed Regular Civil Suit No.1033/2012 seeking declaration that the said sale deed be declared as void. The learned Civil Judge Junior Division, Nanded, has also granted injunction in favour of the appellant vide order dated 11.03.2023.

6. Learned Senior Advocate further submitted that the informant had filed applications for mutating his name in property card, however, one Shivaji Chaure had objected to same on the ground that the informant, on the basis of false sale deed, is trying to mutate his name. The revenue authorities, after hearing the parties, rejected the applications of the informant vide orders dated 30.08.2014 and 14.05.2015. It is specifically stated that the appellant (Dr.Rajendra) has also filed FIR No.86/2012 with the Vimantal Police Station on 22.08.2012 against the informant stating therein that the informant along

with Govind Pawar have created false documents in respect of said plot. The appellant also filed one more FIR No.90/2012 on 01.09.2012 against the informant as he has carried out encroachment on the plot. According to learned Senior Advocate, despite the order of Civil Court restraining the informant, on multiple times he tried to encroach on the plot, which is in possession of the appellant. The informant used to threaten the appellants that he would lodge the complaint under the Atrocities Act. By taking shelter of his caste, the informant has tried to encroach on the plot on multiple times and therefore, the appellant (Dr.Rajendra) has filed several complaints from time to time with the authorities against the informant on 10.08.2012, 16.08.2012, 21.08.2012, 27.04.2015, 30.04.2015, 20.05.2015, 09.07.2015, 21.07.2015, 01.03.2016, 07.03.2016, 25.03.2016, 01.02.2019, 25.03.2020 and 14.12.2020.

7. Learned Senior Advocate for the appellants further submitted that the appellant (Dr.Rajendra) is well qualified and has secured Masters in Surgery from Shivaji University, Kolhapur. As far as the appellant (Balajirao Gadhe) is concerned, he is an agriculturist and also doing other job work. The

appellants have been falsely implicated. Bare perusal of the FIR does not inspire confidence and as such, no offence is said to be committed by the appellants. There is civil dispute between the parties. There is unexplained delay in lodging the FIR. There is no material to indicate any direct or indirect involvement of the appellants in crime. Allegations in the FIR are vague and general and do not disclose any specific overt act attributable to the appellants. Custodial interrogation of the appellants is not at all necessary as they are ready to cooperate with investigation. Therefore, the appellants deserve to be released on anticipatory bail.

8. *Per contra*, learned APP as well as learned advocate for respondent No.2/ informant strongly opposed the instant appeals and stated that, investigation in respect of alleged crime is in progress. The appellants and other accused are absconding, therefore, there is no progress in investigation. Custodial interrogation is necessary. The offence took place at public place and the informant was subjected to caste based abuses. Therefore, in view of the bar under Section 18-A of the Atrocities Act, the appellants are not entitled for grant of anticipatory bail.

9. After having considered submissions of learned advocates for the parties and having perused the record made available to me, it is revealed that there is long standing civil dispute between the parties and there is also injunction order passed by the Civil Court against the informant. Though learned APP strongly opposed the appeals relying on investigation papers, wherein there are statements of eyewitnesses which, according to him, go to show prime involvement of the appellants in crime, however, bare perusal of contents of the FIR would *prima facie* show that the caste based abuse is in the form of chorus. As such, in absence of any specific allegation against a particular accused, the case for grant of anticipatory bail is made out.

10. It is apposite to note here that anticipatory bail is device to secure individual's liberty. The power under Section 438 of the Code of Criminal Procedure to grant anticipatory bail is to be exercised on the basis of available material and facts of a particular case. Where the accused is ready to join investigation and is also ready to cooperate with investigation agency and is not likely to abscond, in that event custodial interrogation should

be avoided. Although there is bar under Section 18-A of the Atrocities Act, however, duty is cast upon the Court to verify averments in the complaint and to find out whether, the offence under the Act has been *prima facie* made out or not? If there is specific averment in the complaint as regards insult or intimidation with intent to humiliate the victim by calling caste name, then the accused is not entitled to anticipatory bail. However, nature and gravity of accusations and exact role of the accused is required to be properly comprehended before arrest is made.

11. In *Prathvi Raj Chauhan vs Union Of India*, AIR 2020 SC 1036 and *Shajan Skaria vs. State of Kerala*, 2024 SCC Online SC 2249 : 2024 INSC 625, the Honourable Supreme Court observed that there is no absolute bar on granting anticipatory bail and in cases where no *prima facie* materials exist in the offences under the Atrocities Act, the Court has the inherent power to direct a pre-arrest bail.

12. In view of the above discussion and after evaluating entire material against the appellants carefully, *prima facie* I am of the view that the prayer for grant of anticipatory bail to the

appellants can be considered. Hence, the following order:

ORDER

a) Both the appeals are allowed and the impugned orders passed by the learned Additional Sessions Judge, Nanded, are quashed and set aside.

b) In the event of arrest of the appellants in connection with Crime bearing FIR No.192/2025 registered on 17.05.2025 with Vimantal Police Station, Nanded, District Nanded, for offences punishable under Sections 119(1), 329(3), 189(2), 190, 115(2), 352, 351(2), 351(3) of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] each with one solvent surety/ security in the like amount.

c) The appellants shall attend the concerned police station on every Monday between 11:00 AM to 12:00 noon till filing of the charge-sheet.

d) The appellants shall not try to contact or pressurize the witnesses or the informant, in any manner whatsoever.

13. However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.

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(SUSHIL M. GHODESWAR, J.)