



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

CRIMINAL APPEAL NO. 520 OF 2025

GOVIND DATTA KALYANKAR

VERSUS

**THE STATE OF MAHARASHTRA AND
PRASAD RAMCHANDRA AASLE**

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Shri Pralhad D. Bachate, Advocate for the Appellant.
Shri Sunil B. Jadhav, APP for Respondent Nos.1 and 3/ State.
Ms. Vasundhara V. Patil, Advocate for Respondent No.2
(Appointed).

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 12 September, 2025

P. C. :-

1. By this appeal, the appellant is praying for quashing and setting aside the order dated 26.06.2025 passed by the learned Additional Sessions Judge/ Special Judge, Gangakhed, District Parbhani, in Criminal Bail Application No.136/2025 whereby, the said application preferred by the appellant for grant of anticipatory bail was rejected.

2. The aforesaid anticipatory bail application was preferred in Crime bearing FIR No.180/2025 registered on 17.05.2025 with Palam Police Station, District Parbhani for the offences punishable under Sections 115(2), 296, 351(2), 351(3)

of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(2) (VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act'). The FIR came to be lodged at the behest of respondent No.2/ informant (Prasad Ramchandra Aasle).

3. Through this appeal, the appellant is praying for grant of anticipatory bail in the aforesaid crime.

4. The Crime No.180/2025 is registered on the basis of report lodged by respondent No.2/ informant stating therein that he is resident of village Shekhrajur, Taluka Palam, District Parbhani. Earlier, the appellant is already booked under the Atrocities Act and in the said earlier crime, the informant is witness and since then the appellant is having grudge against him. It is alleged that on 16.05.2025 at about 01:30 in the noon, the informant along with his cousin Ravi Baliram Asale were returning from Panchayat Samiti, Palam to their village and on the way when they reached near Floor Shop at Pethpimpalgaon Chowk, Palam, the appellant was giving them a contemptuous look. At that time, the quarrel took place between them and during the said quarrel, the appellant alleged to have abused the informant by referring to his caste. The informant's cousin tried to pacify the quarrel. Based on these allegations, the informant

lodged the said FIR.

5. The learned advocate for the appellant submitted that respondent No.2/ informant is the witness and is cousin of the informant (Pruthaviraj Baliram Aasle) in the earlier Crime No.207/2024 registered on 20.06.2024 with the Palam Police Station, District Parbhani, for the offences punishable under Section 295 of the Indian Penal Code and Sections 3(1)(v) and 3(1)(t) of the Atrocities Act. In the said crime, the appellant filed Criminal Bail Application No.172/2024 before the learned Additional Sessions Judge, Gangakhed for regular bail. In the said bail application, the affidavit of one witness Sangmeshwar Potpole was filed on record wherein, he has stated that he had seen the accused i.e. present appellant while committing the offence alleged in the said FIR and as such, he is pretended to be eye-witness. The learned Additional Sessions Judge, Gangakhed, District Parbhani, vide order dated 05.07.2024 was pleased to grant regular bail to the appellant herein on certain conditions.

6. The learned advocate for the appellant further submitted that the incident of crime No.180/2025 is completely false and the appellant has been falsely implicated by the same interested witness out of personal grudge and political rivalry. According to the learned advocate, there is no *prima facie*

offence made out under the provisions of the Atrocities Act against the present appellant. However, in order to settle personal score, respondent No.2/ informant has deliberately filed the FIR in question.

7. According to the learned advocate for the appellant, the FIR registered against the appellant does not show any offence made out against him and it also does not contain necessary ingredients to constitute the offence under the Atrocities Act. He submitted that in order to ascertain whether, there is *prima facie* case made out against the accused for such offences, such ingredients must show *prima facie* involvement of the accused in such crime. The informant and his cousin have deliberately implicated the appellant in order to show that the offence is committed in public view. He made the statement that if the appellant is granted anticipatory bail, he shall abide by each and every condition put to him by this Court. As such, he prayed for grant of anticipatory bail to the appellant.

8. *Per contra*, the learned APP submitted that though the appellant is on regular bail in earlier crime of similar nature, still he has committed another similar offence. This shows that the appellant is not having any regard for the law and order of the society. The appellant, despite having granted regular bail in

earlier crime, again indulged into serious crime with the same victims. The learned APP also made available the investigation papers to the Court and stated that the incident had happened at the place within the meaning of public view and there are statements to that effect. He, therefore, prayed for rejection of this application.

9. The learned advocate for respondent No.2/ informant also vehemently opposed the application for grant of anticipatory bail. According to her, the offence under the provisions of the Atrocities Act is clearly made out. It was not appropriate for the appellant having been secured bail in earlier crime, to indulge in such criminal activity again. This shows that the appellant is habitual offender. As such, she also strongly opposed the grant of anticipatory bail to the appellant.

10. After having heard the learned advocates for the respective parties and after going through the material available on record including investigation papers made available to me, it is to be seen that whether, the ingredients of the FIR do constitute commission of *prima facie* offence against the appellant.

11. In paragraph No.9 of the judgment in ***Vilas Pandurang Pawar and another vs. State of Maharashtra, reported in (2012) 8 SCC 795***, the Honourable Supreme Court

has observed that the duty is cast on the Court to verify the averments in the complaint and to find out whether, the offence under Section 3(1) of the Atrocities Act has been *prima facie* made out. In subsequent landmark judgment of the Honourable Supreme Court in ***Prathvi Raj Chauhan vs Union Of India reported in AIR 2020 SC 1036***, it has been observed that if the complaint does not make out a *prima facie* case for applicability of the provisions of the Atrocities Act, the bar created by Section 18 and Section 18(A) shall not apply. Further in the very same judgment, the Honourable Supreme Court in paragraph No.32, which is the concurring view of one of the Honourable Judge to the said judgment, it has been observed that as far as the provision of Section 18A and anticipatory bail is concerned, in cases where no *prima facie* materials exist warranting arrest in a complaint, the court has the inherent power to direct a pre-arrest bail. While considering any application seeking pre-arrest bail, the High Court has to balance the two interests: i.e. that the power is not so used as to convert the jurisdiction into that under Section 438 of the Criminal Procedure Code, but that it is used sparingly and such orders made in very exceptional cases where no *prima facie* offence is made out as shown in the FIR.

12. Another landmark judgment on the issue is delivered

by the Honourable Supreme Court in ***Shajan Skaria vs. State of Kerala, 2024 SCC Online SC 2249 : 2024 INSC 625*** wherein, the guidelines for determining the issue as regards “when can it be said that a *prima facie* case is made out in a given FIR/complaint?”, has been elaborately discussed. In paragraph Nos.47 and 48 of this judgment, the Honourable Supreme Court has observed as under:-

“47. Prima facie is a Latin term that translates to “at first sight” or “based on first impression”. The expression “where no prima facie materials exist warranting arrest in a complaint or FIR” should be understood as “when based on first impression, no offence is made out as shown in the FIR or the complaint”. This means that when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist prima facie.

48. As a sequitur, if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons.”

13. Very recently, the Honourable Supreme Court, while advertent on the same issue, was pleased to deliver the judgment in ***Kiran vs. Rajkumar Jivraj Jain and another, 2025 SCC Online SC 1886*** wherein, in paragraph Nos.6.1 and 6.2 following observations are made:-

“6.1 The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2 Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial.”

14. After going through the case laws, it is necessary to examine in such cases, whether, a *prima facie* case is made out against the appellant or not? The second registration of crime is by the relative of the informant in the earlier crime and as such, no independent witness is available in the crime registered against the appellant. It seems that both crimes are registered out of political rivalry between the parties. The order dated 05.07.2024 passed by the learned Additional Sessions Judge granting regular bail to the appellant in earlier crime, makes reference to the affidavit of one Sangmeshwar Potpole, who is stated to have witnessed the incident took place in evening hours

of 19.06.2024. However, the learned advocate for the appellant has tendered, across the Bar, the statement of the said witness Sangmeshwar Potpole, who stated that he came to know on 20.06.2024 at 09:00 AM in the morning that the incident dated 19.06.2024 had taken place. Thus, the ground taken by the informant to oppose the bail application of the present appellant was totally incorrect and that shows the intention of the informant to implicate the appellant. The present crime is also lodged by the cousin of the informant in the earlier crime and, therefore, it appears that the interested and related witnesses are trying to implicate the appellant by registering the offences making similar allegations.

15. In view of the aforesaid facts and circumstances, it can be safely concluded that there is no *prima facie* case made out against the appellant and the custodial interrogation of the appellant is not warranted. Therefore, the instant appeal deserves to be allowed by granting anticipatory bail to the appellant on certain conditions. Hence, the following order:

ORDER

- a) The Criminal Appeal stands allowed.
- b) The impugned order dated 26.06.2025 passed by the learned Additional Sessions Judge/ Special Judge, Gangakhed,

District Parbhani, in Criminal Bail Application No.136/2025, is quashed and set aside.

c) In the event of arrest of the appellant in connection with Crime bearing FIR No.180/2025 registered on 17.05.2025 with Palam Police Station, District Parbhani for the offences punishable under Sections 115(2), 296, 351(2), 351(3) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he shall be released on furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one solvent surety/ security in the like amount.

d) The appellant shall attend the concerned police station as and when called by the Investigating Officer.

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

f) The appellant shall not enter Taluka Palam, District Parbhani, till the filing of the charge sheet and he shall give his residential address to the concerned Investigating Officer.

16. The learned advocate for respondent No.2/ informant is appointed through the Legal Aid. She is entitled to receive an amount of Rs.5000/- to be paid by the High Court

Legal Aid Services Sub-Committee, Bench at Aurangabad.

17. 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.)