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

CRIMINAL APPEAL NO. 521 OF 2025

1. Dattatray s/o Pandurang Sakalkar
 2. Sachin s/o Pandurang Sakalkar
-APPELLANTS

VERSUS

1. The State of Maharashtra,
thr. Police Officer,
Police Station, Ambad,
Tal. Ambad, Dist. Jalna
 2. Ganesh s/o Ramesh Dhilpe
-RESPONDENTS

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Mr Popat P. More, Advocate h/f Mr Yogesh K. Bobade, Advocate for Appellants

Mr S. B. Jadhav, APP for Respondent No.1/State

Mr Abhijeet Gaikwad, Advocate (appointed) for Respondent No.2

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 01 OCTOBER 2025

ORDER :

1. By this appeal under Section 482 of the Bharatiya Nyaya Sanhita, 2023, the appellants are praying for granting anticipatory bail and also praying for quashing and setting aside the order dated 25/06/2025, passed by the learned Special Judge-1, Ambad, Tq. Ambad, Dist. Jalna in Criminal Bail Application No.267/2025, whereby the said application preferred by the appellants for grant of anticipatory bail was rejected to their extent.

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2. This Court, vide order dated 25/07/2025, has noted that appellant No.1/Dattatray had been arrested after filing of this appeal. This appeal to the extent of appellant No.1, thus, already become infructuous. Therefore, the instant appeal is being considered only to the extent of appellant No.2/Sachin.

3. The appellant/Sachin has preferred this anticipatory bail application in relation to Crime bearing FIR No.309/2025 registered on 09/06/2025 with Ambad Police Station, District Jalna, for the offences punishable under Sections 118(1), 115(2) 352, 351(2), 189(2), 191(1), 191(3), 190 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 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 (Ganesh Ramesh Dhilpe).

4. The informant Ganesh had lodged report with the Ambad Police Station on 09/06/2025, stating therein that he is labourer working in agricultural field of Balasaheb Suresh Dethe, resident of Sadesavangi, Tq. Ambad, Dist. Jalna since last two years. Adjacent to such agriculture field, there is agricultural field of accused Dattatray and Sachin and the said Dattatray and Sachin were belonging to Maratha Caste. On 09/06/2025 at around 2:30 p.m., he alongwith one

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Irfan Kayyub Shaikh were collecting sweet limes from the field. At that time, the accused persons Dattatray and Sachin came there. The alleged incident took place on the ground of providing information of tractor location to Revenue Department. The appellants alleged to have abused the informant Ganesh by referring his caste. Dattatray alleged to have assaulted him by iron pipe on his right hand and Sachin (present appellant) alleged to have caught hold hands of Ganesh and assaulted him by iron pipe on his back by taking it from Dattatray. They also alleged to have assaulted him with kicks and fists blows. Other accused alleged to have also assaulted him with fists and kicks blows and fell him down. Since they were assaulting him badly, his accompanying Irfan Shaikh got scared and fled away from the spot. After giving life threatening, the accused left the spot and accordingly the informant lodged report.

5. Learned Advocate for the appellants submits that no offence under provisions of Atrocities Act is attracted as the accused persons/appellant alleged to have given caste based abuses in chorus. No specific allegations against accused as regards hurling caste base abuses is recorded in the FIR. He also submits that incident has taken place in the agricultural field and the said place was not a public place and does not come within the meaning of public view. The present

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appellant is not main accused and as such, his custodial interrogation is not required. He further submits that appellant has been falsely implicated in the instant crime and no prima facie case is made out and therefore, the bar under Section 18 of the Atrocities Act is not attracted. Accordingly, he prays for grant of anticipatory bail to the appellant. In support of his contention he also places reliance upon the judgment of this Court dated 27/03/2025 in the matter of **Balasaheb Baban Balode Vs. State of Maharashtra** (Criminal Appeal No.582 and 583 of 2024).

6. Per contra, learned APP and learned Advocate (appointed) for respondent No.2 submit that investigation in the instant crime is going on and the present appellant is absconding since registration of crime. The present applicant is the main assailant alongwith accused No.1. The role attributed to present appellant is that, initially he caught hold the informant and allowed accused Nos.3, 4 and 5 to assault him with kicks and fists blows, due to which he fell down. The appellant also alleged to have assaulted the informant by iron pipe. The victim was examined by the Medical Officer at Government Hospital, Ambad and said medical certificate discloses three injuries, out of which one injury on his right arm and wrist hand is grievous in

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nature. It is also submitted that Respondent No.2 was indoor patient in one Navjeevan Hospital from 10/06/2025 to 11/06/2025. He alleged to have received fracture injuries in the joint. It is submitted that, since the appellant is absconding since the date of incident of crime, the possibility of not cooperating with investigation cannot be ruled out, and accordingly, learned APP and learned Advocate for respondent No.2 pray for rejection of anticipatory bail of the appellant.

7. With the assistance of learned Advocate for the parties, I have perused the material on record pertaining to the instant crime. The Investigating Officer has carried out panchanama of the spot on 10/06/2025. It is found that incident had taken place in the field adjacent to the road. The Investigating Officer also recorded the statement of independent eye witness who was present at the spot. The said witness has clearly supported the prosecution case and his statement is in consistent with the contents of FIR. The Investigating Officer also appears to have collected all the required documents for the purpose of investigation. The papers collected from the Hospital disclose that there was fracture injury on the right forearm and wrist arm in the nature of grievous. The appellant seeks anticipatory bail on the ground that nothing is required to be recollect at his behest and therefore, no custodial interrogation is necessary. Since the contents of

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FIR itself discloses the *prima facie* commission of offence by the accused persons, *prima facie* case against the present accused is made out. Therefore, the bar under Section 18 of the Act is attracted and as such, the applicant is not entitled to grant anticipatory bail. The statement of independent witness coupled with medical certificates of the injured is *prima facie* incrementing material against the appellant. Therefore, custodial interrogation of the applicant is necessary. Accordingly, instant appeal is dismissed.

8. Fees of learned Advocate appointed to represent respondent No.2 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

[SUSHIL M. GHODESWAR, J.]

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