



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

CRIMINAL APPEAL NO. 548 OF 2025

1. Nitin s/o Ankush Kasal
2. Tukaram s/o Keru Kasal
3. Somnath s/o Mahadev Divate .. Appellants

Versus

The State Of Maharashtra And Another .. Respondents

Mr. Vinayak S. Bedre, Advocate for the Appellants.
Smt. A. S. Deshmukh, APP for Respondent No. 1.
Mr. D. K. Dagadkhair, Advocate for Respondent No. 2.
Smt. Prashanti Tambat, Advocate for Respondent No. 2
(Appointed).

CORAM : KISHORE C. SANT, J.

DATE : 25th AUGUST, 2025.

PER COURT :-

. Heard learned advocate Mr. Bedre for the appellants,
learned A.P.P., learned advocate Mr. Dagadkhair engaged by
respondent No. 2 and learned advocate Smt. Tambat for
respondent No. 2 (appointed).

2. The appellants are accused in crime registered with
Shevgaon Police Station bearing FIR No. 353/2025 for the

offences punishable under Section 74, 115(2), 352 of the Bhratiya Nyaya Sanhita (for short “B.N.S.”) and Sections 3(1)(r), 3(1)(s), 3(1)(w) (i) and 3(2)(va) of the SC and ST (Prevention of Atrocities) Act (for short “Atrocities Act”). FIR came to be lodged at the instance of informant – present respondent No. 2 alleging that there was some dispute between parties and a case was pending before the Court. The accused persons came to her shop on 20.04.2025 in the evening time. When she was sweeping the courtyard, the present appellants came on a motorcycle. They threatened that since her father is not withdrawing case against them, they would outrage her modesty being lady of belonging to Scheduled Caste. On that, it is alleged that accused Nitin – present appellant No. 1 torn the top of the informant. It is further alleged that, when her mother came to rescue her, the accused persons abused her in filthy language in the name of caste and also torn her blouse. They pushed grandfather of the informant. The Police registered an offence. The appellants approached the learned Sessions Court seeking bail in the event of arrest, however, the same came to be rejected. The appellants are, therefore, before this Court. It is informed that the appellant No.

2 – Tukaram died during the pendency of the appeal and therefore, his name is deleted. The present appeal is therefore heard to the extent of appellant Nos. 1 and 3.

3. The learned advocate for the appellants vehemently submits that, there is already a dispute pending between the parties. All the accused persons are shown witnesses in the said dispute before the Civil Court and therefore, to implicate the appellants a false complaint is lodged. He submits that, there is no any specific allegation against accused Somnath. Prior to the incident, one FIR was lodged by Arjun Kasal against father of the informant. It is for that reason a false complaint is filed. He prays for bail in the event of arrest of appellants.

4. The learned A.P.P. vehemently opposes the appeal. She submits that, in addition to a statement by the informant, there is one more statement recorded of her mother. Even mother has stated incident in details. This clearly shows the involvement of the accused persons. So far as accused Somnath is concerned, she submits that all the four accused came together clearly showing the intention to outrage modesty of the informant. Section 3(2)

(va) of the Atrocities Act is rightly applied. Coming of all the accused together clearly shows that they were sharing a common intention. In such cases it may not be necessary always that role of each of the accused be specifically shown. She thus prays for rejection of the appeal.

5. The learned advocate Mr. Dagadkhair for respondent No. 2 submits that, a crime is registered under the sections of Atrocities Act. There is clear bar invoking the powers of Section 438 of the Code of Criminal Procedure (Section 482 of the B.N.S.). The appellants, therefore, do not deserve order of bail in the event of arrest.

6. The learned advocate Smt. Tambat for respondent No. 2 (appointed) also addresses this Court. She submits that, a specific role is attributed to accused Nitin. The accused persons not only assaulted the informant, but assaulted even mother of the informant which clearly shows the involvement and the intention on the part of the accused persons to outrage the modesty of the informant and her mother. She also prays for rejection of the appeal.

7. After hearing the parties this Court finds that, there is earlier dispute pending between the parties. The accused persons are shown witnesses in the said case. The very intention of the accused shown is to bring pressure on the informant and family members. The possibility of implication also cannot be totally ruled out, however, at the same time, it is clearly seen that there is specific allegation against accused Nitin. About accused Somnath there is no specific allegation or no specific role is attributed to him. The benefit can be given to accused Somnath as there is no specific allegation against him. The learned Trial Judge rejected the application to the extent of accused Nitin. To the extent of accused Somnath this Court finds that, the case could have been considered by the learned Trial Judge. Considering the above, following order :

ORDER

- (i) Criminal appeal is partly allowed.
- (ii) Criminal appeal to the extent of accused Nitin – appellant No. 1 stands rejected.
- (iii) The appellant No. 3 - Somnath be released on bail in the

event of arrest in connection with FIR No. 353/2025 registered with Shevgaon Police Station for the offences punishable under Section 74, 115(2), 352 of the B.N.S. and Sections 3(1)(r), 3(1)(s), 3(1)(w) (i) and 3(2)(va) of the Atrocities Act on executing PR. bond in the sum of Rs. 25,000/- (Rs. Twenty Five Thousand only) with one surety in the like amount on following conditions :

(a) Till filing of the charge-sheet the appellant No. 3 - Somnath shall not enter the jurisdiction of Shevgaon Police Station except for attending the Police Station or the Court.

(b) The appellant No. 3 - Somnath shall not try to contact any of the witnesses and shall not try to pressurize them. He shall co-operate in the investigation. He shall remain present as and when called by the investigating officer.

(c) The appellant No. 3 - shall give his residential address, mobile number and other contact details to concerned I.O./Police Station.

8. The learned advocate Smt. Tambat for respondent No. 2 is appointed through Legal Aid Centre. Her fees is quantified to

Rs. 5,000/- (Rs. Five Thousand only) to be paid by the Legal Aid Centre.

9. Criminal appeal stands disposed of.

(KISHORE C. SANT, J.)

PS.B.