



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

CRIMINAL APPEAL NO. 579 OF 2025

VEERBHADRA TRIMBAK BIRKULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Reddy Ajinkya
APP for Respondent No.1 : Mr. S. B. Jadhav
Advocate for Respondent No.2 : Mr. Kanade Angad Lala
...

CORAM : KISHORE C. SANT, J.

DATE : 20-08-2025

PER COURT:-

1. Heard the learned counsel for the appellant, the learned A.P.P. for respondent No.1 and the learned counsel for respondent No.2.
2. This appeal arises out of order below Exhibit-1 passed by the learned Additional Sessions Judge, Udgir, rejecting Criminal Bail Application No.162 of 2025, dated 19.07.2025, for anticipatory bail, in connection with Crime No.423 of 2025 registered with Udgir Rural Police Station, Taluka Udgir, District Latur, for the offences punishable under Sections 118(1), 351(2), 352, 3(5) of the Bhartiya Nyaya Sanhita, 2023 and Sections 3(1)(r)(s) and 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short, "Atrocities Act").

3. The appellant is shown as accused No.1 in the first information report. Respondent No.2 is the informant.

4. The informant lodged a report on 02.07.2025 with the police station that he is cultivating the land of one Ganesh Omkar Patwari from January 2025. He has taken said land on rent for two years. On 30.06.2025, in the afternoon, when he was grazing his cow in the field, the present appellant, with his brother and mother, came and asked as to why the informant was grazing his cow in the field. The informant replied that he has taken the land on contract basis and, therefore, he has right to graze the cattle/cow on the said land. On this count, the appellant abused in the name of his caste and slapped on cheek of the informant. The brother of the appellant kicked him in the stomach. The mother took her Chappal and assaulted the informant. The co-accused Pralhad pacified the quarrel. On that, it is alleged that the accused abused in the name of his caste and threatened to kill him and asked to leave the village.

5. On registration of offence, the appellant approached the trial Court for release on bail in the event of arrest in connection with the said crime. His application, however, came to be rejected by the learned Additional Sessions Judge by order dated 19.07.2025. The bail application to the extent of accused Nos. 2 and 3 came to be allowed. The application came to be dismissed as regards the present appellant.

6. Mr. Reddy, learned counsel for the appellant has vehemently argued that the first information report is lodged by falsely implicating the accused persons. There is delay in lodging the first information report. The first information report is concocted. No such incident has taken place. Prior to this offence, it is the appellant who was required to file complaint with the Revenue authorities against the respondent. In fact, it is the respondent/informant who has committed theft of the agricultural produce of the appellant and while doing that, they also threatened the appellant that he would file false case under the Atrocities Act. The appellant, therefore, was required to file a private complaint in the Court against the informant and others. On 19.05.2025, a complaint was even made to the revenue authorities wherein the informant is shown as respondent No.7. In a private complaint in the Court of the learned Judicial Magistrate First Class, there are clear allegations made against the informant. The said complaint was lodged on 03.04.2025. He further submits that there are photographs showing that it is the informant who was aggressive. On 03.06.2025, it is the appellant who was required to file complaint against the informant. The learned counsel thus submits that all the complaints filed by him are prior to the present complaint. Just to counter blast with this complaint, present complaint is filed.

7. The learned A.P.P. opposes the appeal and submits that even on earlier occasion, complaints were made, however, offences are registered against the present appellant. One was filed in the year 2023. The appellant is thus habitual offender. There are statements of independent witnesses showing that the offence has taken place. He prays for rejection of the appeal.

8. Mr. Kanade, learned counsel for respondent No.2 also vehemently opposed the bail. He submits that clearly a case is made out under the Atrocities Act. In view of bar of Section 18 of the Atrocities Act, this Court need not entertain this Appeal.

9. Learned counsel for the appellant has relied upon the judgment in the cases of (i) *Namdev alias Shrikant Pandurang Patil vs. State of Maharashtra*, AIR Online 2023 Bom 29, (ii) *Jagdish Sajjankumar Banka vs. State of Maharashtra*, AIR Online 2023 Bom 374, (iii) *Vilas Pandurang Pawar & Anr vs. State of Maharashtra & Ors.*, 2012 AIR SCW 4852 and (vi) *Yogesh Dnyandeo Nimbalkar vs. State of Maharashtra*, AIR Online 2023 Bom 951.

10. In the case of *Namdev alias Shrikant Pandurang Patil* (supra), there was delay of 12 days in lodging the first information report. In the case of *Jagdish Sajjankumar Banka* (supra), this Court granted protection stating that abuses on the caste should be in the presence of independent witnesses. In the present case, it was submitted by the learned A.P.P. that there are independent witnesses to the incident.

11. In the case of *Yogesh Dnyandeo Nimbalkar* (supra), before the Principal Seat at Bombay, a complaint was made by the accused with the Police that he received threat from the informant that he would file false complaint under the Atrocities Act and within 22 hours, the complaint was filed under the Atrocities Act. The Court came to a conclusion that the complaint appears to be with mala fides and had granted bail. This Court finds that in the present case delay has occurred. There is no requirement under the law that the incident should be seen by independent witnesses. In the present case, there are independent witnesses to the incident as shown by the learned A.P.P.

12. The learned counsel for respondent No.2/informant during the course of arguments relied upon judgment in the case of *Vilas Pandurang Pawar* (supra), wherein the Honourable Apex Court considered scope of Section 18 of the Atrocities Act read with Section 438 of the Code of Criminal Procedure. It is observed that Section 18 of the Atrocities Act creates a specific bar for grant of anticipatory bail under the provisions of the Atrocities Act. No Court can entertain application for anticipatory bail, unless it *prima facie* finds that no such an offence is made out under the Atrocities Act. It is also held that while considering the application for bail, scope for appreciation of evidence and other material on record is limited. The Court is not expected to indulge in critical analysis of the evidence on record.

13. After hearing the parties, this Court finds that other judgments relied by the learned counsel for the appellant are distinguishable on facts. The judgment in the case of *Vilas Pandurang Pawar* (supra) is squarely applicable to the present case. The special leave petition was dismissed. Considering the above, this Court has no hesitation in rejecting the bail application.

14. In the present case, this Court finds that no case is made out for grant of relief to the appellant. Criminal Appeal is, therefore, dismissed.

[KISHORE C. SANT]
JUDGE

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