



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

**CRIMINAL APPEAL NO. 639 OF 2025
(For Regular Bail)**

**SUNIL BABAN WANVE
AND
SAMPAT BABAN WANVE
VERSUS
THE STATE OF MAHARASHTRA AND
KAKASAHEB MARUTI DHAGE**

**AND
CRIMINAL APPEAL NO.641 OF 2025
(For Anticipatory Bail)**

**BHIMA MUKINDA KARAD
VERSUS
THE STATE OF MAHARASHTRA AND
KAKASAHEB MARUTI DHAGE**

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Shri R.G. Hange and Shri A.R. Hange, Advocates for the
Appellants.
Shri G.O. Wattamwar, APP for Respondent No.1/ State.
Shri Dhananjay A. Mane, Advocate for Respondent No.2.
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CORAM : SUSHIL M. GHODESWAR, J.

**Reserved on : 16 September, 2025
Pronounced on : 19 September, 2025**

ORDER :-

1. By Criminal Appeal No.639/2025 for regular bail,
the appellants therein are praying for quashing and setting aside
the order dated 11.08.2025 passed by the learned Additional
Sessions Judge, Beed, in Criminal Bail Application No.779/2025,

whereas, by Criminal Appeal No.641//2025 for anticipatory bail, the appellant is praying for quashing and setting aside the order dated 11.08.2025 passed by the same Court in Criminal Bail Application No.776/2025. By the impugned orders, the said applications preferred by the appellants for grant of regular bail and anticipatory bail, respectively, were rejected.

2. The above bail applications were preferred in Crime bearing FIR No.212/2025 registered on 20.07.2025 with Shirur Kasar Police Station, District Beed for the offences punishable under Sections 115(2), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s) and 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 (Kakasaheb Maruti Dhage).

3. In the FIR, respondent No.2 alleged that on 19.07.2025 at about 02:30 noon, while he and his friend Prabhakar Sarjerao Sirsath were sitting and chitchatting in the hall of Maruti Temple, Sampat Baban Wanve (appellant No.2 in Criminal Appeal No.639/2025) was sleeping in the temple hall. At that time, the brother of Sampat Wanve, namely, Sunil Baban Wanve (appellant No.1 in Criminal Appeal No.639/2025), who

was heavily drunk, came there and he drank water from bottle and spat the same on the person of the informant. Therefore, the informant informed this incident to Sampat by waking up him from sleep. Thereafter, the quarrel took place between them and both Sampat and Sunil alleged to have abused the informant by referring to his caste. At that time, his friend Prabhakar Sirsath also came there and he tried to pacify the quarrel. However, he was also assaulted with fist and kick blows. Thereafter, the accused persons alleged to have threatened them of dire consequences. After this incident, again the accused persons alleged to have went to the house of informant and started giving abuses. When the mother of informant came out of house, she was also abused by referring to her caste. On the basis of these allegations, the FIR came to be lodged on 20.07.2025 at about 18:40 hours.

4. According to the learned advocate for appellants, respondent No.2/ informant has lodged FIR due to long standing political rivalry between the parties. There are two political groups in the village Tembhurni. One political group is of Prabhakar Sirsath, who is friend of respondent No.2/ informant. The appellant (Bhima Karad) in Criminal Appeal No.641/2025 and the said Prabhakar Sirsath had contested the election against

each other from the same ward in the year 2022 and the appellant Bhima Karad had defeated Prabhakar Sirsath. The daughter of cousin of the informant, namely, Mangal Prakash Dhage had also contested the election against one Pooja Ganesh Dhage, who belonged to the group of appellant Bhima Karad. In the said election also, Pooja Dhage defeated Mangal Dhage. Thereafter, the Sarpanch of village was elected from the group of appellants. Thus, in view of political enmity between two groups, the FIR has been lodged by the informant. It is stated that the supplementary statement of the informant was recorded wherein, the informant alleged to have stated that the appellant Bhima Karad abused the informant by referring to his caste and asked him to withdraw the FIR. Therefore, the appellant Bhima Karad came to be added as the accused.

5. The learned advocate for the appellants further submitted that the incident took place between 14:30 to 15:00 hours on 19.07.2025 and the said Prabhakar Sirsath, who belongs to the opponent party, along with the informant had gone to the Police Station 19.07.2025 itself to register the FIR against the appellants. However, the NC report was registered and on that day, the informant did not lodge any report though he was very much present along with Prabhakar Sirsath in the Police Station.

On the next day i.e. 20.07.2025 at about 18:40 hours, the informant again went to Police Station and lodged the FIR. Thus, there is delay in lodging the FIR and it is lodged after thought.

6. The learned advocate for the appellants further submitted that on the contrary, respondent No.2/ informant is habitual offender and is facing trial for the offences punishable under Sections 363, 366, 376(n) of the Indian Penal Code and Sections 3 and 4 of the POCSO Act. Moreover, one Pooja Ganesh Dhage, who is the elected member of the Village Panchayat, has also filed Criminal Misc. Application No.187/2022 under Section 156(3) of the Code of Criminal Procedure against the informant and others for the offences punishable under Sections 452, 327, 324, 323, 504, 506 of the Indian Penal Code, wherein, the learned JMFC, Shirur Kasar directed the Police to investigate the said matter. Another Crime No.140/2013 was also registered against Prabhakar Sirsath, who is the friend of the informant, for the offences punishable under Sections 452, 323, 504, 506, 427 of the Indian Penal Code. Thus, the learned advocate for the appellants stated that in view of long standing political rivalry between the parties, the FIR has been registered against the appellants and they have been falsely implicated. In order to oppose the grant of bail to the appellants,

the informant and his friend are trying to file frivolous complaints against the appellants of threatening. According to the learned advocate, there is no *prima facie* offence made out under the provisions of the Atrocities Act against the present appellants. However, in order to settle personal score and political score, respondent No.2/ informant has deliberately filed the FIR in question.

7. According to the learned advocate for the appellants, the FIR registered against the appellants does not show any offence made out against them 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 friend have deliberately implicated the appellants in order to show that the offence is committed in public view. He made the statement that if the appellants are granted bail, they shall abide by each and every condition put to them by this Court. He, therefore, prayed for allowing these appeals.

8. *Per contra*, the learned APP strongly opposed the appeals and contended that the appellants are involved in serious

crime. The crime has taken place at a public place within a public view. The appellants and their group members are threatening the informant of dire consequences. Custodial interrogation of the appellant (Bhima Karad) is necessary as other appellants/accused are already arrested. The investigation is almost completed and within a period of 2 to 3 days, the Investigating Officer intends to file the charge-sheet. If the appellants are released on bail, similar type of offences can be repeated. The appellants and the victim being residing in the same village, chances of causing law and order situation cannot be ruled out. He, therefore, prayed for rejection of the appeals.

9. The learned advocate for respondent No.2/informant also vehemently opposed the grant of any relief in favour of the appellants. According to him, the incident took place in broad day light and at public place. The accused persons are influential and they are issuing threats to the informant and his friends. If the appellants are granted bail, they will create terror in the village and may again commit similar offence. The contents of the FIR clearly make out a *prima facie* case against the appellants. In view of the bar under Section 18 of the Atrocities Act, the appellant (Bhima Karad) is not entitled for grant of anticipatory bail. The learned advocate has relied on the

recent judgment of the Honourable Supreme Court in ***Kiran vs. Rajkumar Jivraj Jain and another, 2025 SCC Online SC 1886*** to contend that if the offence under the provisions of the Atrocities Act is made out, anticipatory bail cannot be granted by disregarding the bar of Section 18.

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 by the learned APP, it is clear that the incident, which took place on 19.07.2025, came to be reported on the next day i.e. 20.07.2025. The submissions of the learned advocate for the appellants cannot be overlooked as regards the fact that the friend of informant, namely, Prabhakar Sirsath had also gone to the Police Station to register the crime against the appellants on 19.07.2025 itself along with the informant. However, the informant has not filed the report on 19.07.2025. At this *prima facie* stage, it needs to be considered as to why the informant has not lodged the report on 19.07.2025 when he along with his friend had gone to the Police Station on the same date after the alleged incident. The presence of his friend Prabhakar Sirsath at the time of the alleged incident on 19.07.2025 at Maruti Temple is also recorded by the informant in his complaint. It thus appears that the informant is

very close to Prabhakar Sirsath and as such, it seems that both were trying to lodge the report against the appellants in order to settle the political score. The candidates of the appellants' fraction have defeated the candidates of the group of Prabhakar Sirsath during the Village Panchayat elections. This position is also not disputed by the learned advocate for respondent No.2. Thus, it is evident that there is political rivalry between the parties. The record *prima facie* reveals that the allegations levelled against the appellants are nothing but to take revenge for settling political score.

11. 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. At this stage, it is to be noted that the appellants in Criminal Appeal No.639/2025 are arrested on 21.07.2025 and since then, they are behind bars. The investigation in the crime is already completed and as per the statement of the learned APP, the charge-sheet is likely to be filed within 2-3 days. Except the offences under the Atrocities Act, other offences are bailable.

15. In view of the aforesaid facts and circumstances, it can be *prima facie* observed that there is no *prima facie* case made out against the appellants and the custodial interrogation of the appellant in Criminal Appeal No.641/2025 is not warranted. No purpose would be served by refusing bail to the appellants. Therefore, the instant appeals deserve to be allowed by granting bail to the appellants on certain conditions. Hence, the following order:

ORDER

a) Both Criminal Appeal Nos.639/2025 and 641/2025 stand allowed and the impugned orders dated 11.08.2025 are quashed and set aside.

b) In connection with Crime bearing FIR No.212/2025 registered on 20.07.2025 with Shirur Kasar Police Station, District Beed for the offences punishable under Sections 115(2), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants in Criminal Appeal No.639/2025 shall be released on bail on their furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] each with one solvent surety/ security in the like amount.

c) In the event of arrest of the appellant in Criminal Appeal No.641/2025, in connection with Crime bearing FIR No.212/2025 registered on 20.07.2025 with Shirur Kasar Police Station, District Beed for the offences punishable under Sections 115(2), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s) and 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 appellants shall attend the concerned police station as and when called by the Investigating Officer till filing of the charge-sheet.

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

f) The appellants shall not enter village Tembhurni, Taluka Shirur Kasar, District Beed, till filing of the charge sheet and they shall give their residential address to the concerned Investigating Officer.

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

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(SUSHIL M. GHODESWAR, J.)