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**THIS ORDER IS CORRECTED AND UPLOADED IN VIEW OF
THE ORDER DATED 05-08-2025.**

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

CRIMINAL APPEAL NO.865 OF 2024

**ARUN PRABHAKAR SAUDAGAR
VS
THE STATE OF MAHARASHTRA AND ANOTHER
AND
CRIMINAL APPEAL NO.866 OF 2024**

**ARUN PRABHAKAR SAUDAGAR
VS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Yuvraj V. Kakade, Advocate for the appellant
Mrs. A. S. Deshmukh, APP for the respondents/State
Mr. R. R. Karpe, Advocate for the respondent/accused

CORAM : KISHORE C. SANT, J.

DATE : 30th JUNE, 2025

P. C.

1. These appeals are filed by the original informant challenging two separate orders dated 03-08-2024 passed below Exh. 1 in Criminal Bail Application Nos. 72/2024 and 71/2024 respectively by the learned Sessions Court, Rahata granting bail to the accused/respondents in the event of their arrest in

connection with crime No. 367/2024 registered with Loni Police Station, Rahata, Dist. Ahmednagar for the offences punishable under sections 323, 324, 504, 506 read with section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for short 'the Atrocities Act']

2. The facts in short are that Crime No. 367/2024 came to be registered at Loni Police Station, Rahata at the instance of the present appellants against the respondents. It is alleged that on 26-06-2024 at 06.00 pm in the evening the appellant-informant, working as driver with one Amol Aher, was parking the car in the owner's bungalow. When he opened the gate and started taking the car inside, three persons came on the motorcycle. The accused Mahesh stood in front of car abusing the informant in the name of his caste saying that persons belonging to the caste of the informant have become arrogant. One Saraswati tried to pacify accused Mahesh. The informant took the car to the house of his owner. Amol also requested

Mahesh to let the informant park the car. On that Mahesh even threatened that he would cut the informant into the pieces. If Amol comes in between he would finish even Amol. Mahesh thereafter asked to hand over Arun to him otherwise, he would put the car on fire. While this incident was going on, the present respondent Vishal came at the spot. Vishal even told the wife of the informant, who had also came there that on that day only they would finish the informant. Mahesh, thereafter assaulted even the wife of the informant. He also dragged her by holding her hair. Vishal hit the informant with his shoes. On this, offence came to be registered. The respondents in both the appeals filed Criminal Bail Applications bearing No. 72/2024 & 71/2024 respectively seeking bail in the event of their arrest in connection with aforesaid crime. The learned Sessions Judge, by order dated 03-08-2024 allowed the applications and granted protection to the respondents. The appellant-informant is therefore, before this court.

3. The learned advocate Mr. Kakade, for the appellant-

informant vehemently argued that the learned Sessions Judge has erred in allowing the applications by granting protection to the present respondents by ignoring mandate of section 18 and section 18-A of the Atrocities Act. Clearly a case is made out attracting ingredients of the Atrocities Act of Section 3(2)(va) and 3(1)(r) and 3(1)(s) of the Atrocities Act. It is wrongly taken that quarrel was only on the parking of the car. He relied upon the following judgments :

1. Brij Nandan Jaiswal Vs Munna and ors¹
2. Anil Navnath Murkute Vs State of Maharashtra in Criminal Appeal No.351/2020 dated 10-08-2020
3. Munja Devi Vs Onkarjit Singh Ahluwalia and others²

4. The learned advocate for the appellant-informant thus prays for quashing and setting aside the impugned orders.

5. The learned advocate Mr. Karpe, for the respondents vehemently argued that in fact no case is made out attracting the ingredients of any of sections under the Atrocities Act. When no case is made out under the Atrocities Act, there is no question

¹ AIR2009SC1021

² AIR2017SC1583

of bar of section 18 and 18-A of the Atrocities Act. So far as Vishal is concerned, he has not uttered any word in the name of his caste. He relied upon the following judgments :

1. Bhagirath Mahipat Singh Jadeja VS State of Gujrat³
2. Gurucharan Singh and others Vs State (Delhi Administration)⁴
3. Sanjay Chandra Vs Central Bureau Investigation⁵
4. Brij Nandan Jaiswal VS Munna and others⁶
5. Anil Navnath Murkute Vs State of Maharashtra in Criminal Appeal No.351/2020 dated 10-08-2020
6. Manju Devi Vs Onkarjit Singh Ahluwalia and Ors⁷
7. Dolat Ram and others Vs State of Haryana⁸

6. The learned APP vehemently opposed the appeals. She submits that looking at the FIR itself it is clear that ingredients of the offences alleged against the appellants are clearly attracted. It is clearly seen that the appellant not only uttered in the name of his caste but repeated the same 2-3 times. She thus, prays for rejection of the appeals.

3 (1984)1 SCC 284

4 (1978)1 SCC 118

5 (2012)1 SCC 40

6 AIR2009SC1021

7 AIR2017SC1583

8 (1995) 1 SCC 349

7. The learned advocate for the respondents vehemently argued that for cancellation of bail overwhelming reasons are required. If two views are possible, the High Court shall not interfere with the order granting bail. Liberty of citizen cannot be taken away lightly when it is specifically granted.

8. In the case of Manju (Supra) the Hon'ble Apex Court has specifically considered the provision of the Atrocities Act. The High Court had granted anticipatory bail for the offences punishable under sections 3(1)(xi) of the Atrocities Act. The Hon'ble Apex Court considered the provision of section 18 and held that when no case was made out attracting the provision of the Atrocities Act, no anticipatory bail application should have been entertained. It is held that when there was specific averments in the complaint made by the complainant, bar under section 18 would get attracted. The bail granted to the respondents therein came to be cancelled. In the case of Brij Nandan Jaiswal (Supra) it is held that the complainant can always question the order granting the bail, if the said order is

not validly passed.

9. Judgments cited by the respondents those are on the power of the court to cancel bail. The judgment in the case of Bhagirathsinh Mahipat Singh Judeja (Supra) is on consideration for cancellation of bail. It was a case under section 439(2). It is held that very cogent and overwhelming circumstances are necessary for cancellation of bail. The approach of the court in the matter of bail is not that the accused should be detained by way of punishment. Consideration should be as to whether the presence of the accused would be readily available for his trial and whether he is likely to abuse the discretion granted in his favour by tampering with evidence. The case of Dolat Ram (Supra) is on consideration for rejection of the bail. It is held that application for cancellation of the bail must be considered and dealt with on different footing. It was a case of dowry death. The judgment in the case of Gurucharan Singh and others (supra) is also on the power of the court to cancel the bail. Paramount considerations were given i] likelihood of the

accused fleeing from justice and ii] tampering with prosecution evidence relating to ensuring fair trial.

10. The case of Sanjay Chandra (Supra) is on the similar lines. In the case of Anil Navnath Murkute (supra) this court considered the case of Vasantrao Wadgir VS State of Maharashtra reported in 2020 ALL MR (Cri) 365. In that case it was held that merely informant happens to be member of the scheduled caste or scheduled tribe is not material consideration. There must be averments in the complaint that the informant belongs to scheduled caste or scheduled tribe and the accused belongs to open category.

11. Considering the above judgments, it is clear that for cancellation of bail cogent and overwhelming reasons are required, when the application is under Section 439 (2). In the present case the ground taken is that the court has committed illegality while granting bail and failure of the court in considering the bar under Section 18 of the Act. So far as

judgment in the case of Manju Devi (Supra) is concerned, the Hon'ble Apex Court has considered the case of cancellation of bail, where the case was under Atrocities Act. The court specifically considered section 18 of the Atrocities Act. It is held that when a case is made out attracting the provisions of the Atrocities Act, bar under Section 18 automatically operates.

12. In the present case, therefore, it needs to be seen as to whether offence is made out against the respondents under the Atrocities Act. It is seen in the FIR that there is specific averments as against accused Mahesh. Role of Mahesh is in aggravated form. After first incident took place, the informant went in the house of car owner-Amol. Amol also came out and tried to pacify the Mahesh. Even thereafter, Mahesh kept on abusing the informant in the name of caste. Even after his brother and father came, he kept on abusing in the name of caste. So far as Vishal is concerned, he also assaulted the informant with kicks and blows. They even assaulted the wife of the informant. Mahesh even hold the hair of wife of the

informant and pushed her. All these things clearly show that there is insult and abuse in the name of caste.

13. Though it is tried to be submitted that merely utterance in the name of caste is not sufficient to attract the ingredients of section 3(1)(r) and 3(1)(s), in the present case, it is seen that repeated utterance and specific threats given that he would not allow the informant to park the car clearly shows that he had insulted and humiliated the informant. The act of holding the hair of the wife-Swati of the informant and pushing her also shows that the offence under Section 3(2)(va) is made out, as it comes in the Schedule of the offence appended to the Atrocities Act.

14. The learned Sessions Court though discussed bar under Section 18 and 18-A of the Atrocities Act, failed to appreciate the purport of the section properly and has committed an error by entertaining bail application. So far as submission on cogent and overwhelming reasons are required

for cancellation of bail, this court finds that the present case is an appeal. While exercising the powers of the appeal, the court can certainly look into the findings and observations of the trial court. When those findings and observations are found to be not correct, this court certainly has power to set aside the order.

15. The legislature has provided the appeal under section 14(a) specifically with a view that the superior court can exercise power available with the appellate court even in the matter of grant of bail. Legislature specifically wants that no powers of 438 of the Cr. P. C. (Now Section 482 of BNSS) be available to the accused in the cases under the Atrocities Act. Looking from this angle, powers of the appellate court in appeal are vide. The submissions that overwhelming circumstances are required for cancellation of bail cannot be appreciated.

16. Now coming to the present case, it is to be seen that as to whether the act is with an intention to humiliate or insult the informant. While considering the cases of humiliation and

insult in the name of caste, the court must consider it from the point of view of the victim who is humiliated or insulted. When it is done in public, it has certainly more impact on the person who is humiliated and insulted in public. No abuse in the name of caste normally be taken as innocuous or unintentional. Normally every abuse in public place and utterance, the name of caste should be taken as insult in the name of caste.

17. Considering all above, this court has no hesitation in setting aside the order passed by the learned Sessions Court. Hence, the following order:

ORDER

- a] The appeals stand allowed.
- b] The impugned orders dated 03-08-2024 passed below Exh.1 in Criminal Bail Application Nos. 72/2024 & 71/2024 by the learned Sessions Judge, **Rahata**, Dist. Ahmednagar are quashed and set aside.
- c] Two weeks time is given to the respondents/accused to surrender from the date of uploading of this order.

[KISHORE C. SANT, J.]