



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

CRIMINAL APPEAL NO. 1053 OF 2024

1. Rizwan Khan Mohammad Khan
2. Shaikh Mushir Shaikh Masood .. Appellants

Versus

The State Of Maharashtra And Another .. Respondents

Mr. V. C. Patil (Ashtekar), Advocate for the Appellants.
Smt. C. C. Kutti, APP for Respondent No. 1.
Mr. D. S. Ingole, Advocate for Respondent No. 2.

**WITH
CRIMINAL APPEAL NO. 25 OF 2025**

Shaikh Owais Shaikh Akram .. Appellant

Versus

The State Of Maharashtra And Another .. Respondents

Mr. V. C. Patil (Ashtekar), Advocate for the Appellant.
Smt. C. C. Kutti, APP for Respondent No. 1.
Mr. D. S. Ingole, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 09th JUNE, 2025.

P. C. :-

. Heard learned advocate for the parties.

2. The appellants in both these appeals are the accused persons in the same FIR lodged by respondent No. 2. The appellants have

approached this Court seeking bail in the event of their arrest in connection with FIR No. 248/2024 registered with Himayatnagar Police Station, Nanded for the offences punishable under Sections 296, 324 (4), 351 (2), 3 (5) of the Bhartiya Nyaya Sanhita, 2023 (for short “B.N.S.”) and under Section 3 (1) (r) and 3 (1) (s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short “Atrocities Act”). It is alleged by the informant – respondent No. 2 that, on 30.09.2024 the appellants abused the informant in the name of caste and also threatened her. Thereafter, they thrown stones on the house of the informant. The offence was thus registered on the basis of FIR.

3. The appellants approached the learned Sessions Judge. The learned Sessions Judge, by the impugned order, rejected the applications. The appellants are, therefore, before this Court.

4. It is vehemently argued by Mr. Patil, learned advocate for the appellants that, there is no specific allegation made against any of the accused persons. The allegations are vague. The offence is registered only because of enmity as all the parties are residing in the same vicinity. He further submits that, when the incident alleged is of 30.09.2024, the offence is registered on 02.10.2024. There is no explanation offered for such delay. He thus prays for allowing the

appeals.

5. The learned A.P.P. vehemently opposes the appeal. She has produced on record the statements recorded by the investigating officer. She submits that in all these statements the witnesses have specifically stated that, when the incident took place they were present. She submits that, when the offence is clearly made out, the appellants are not entitled to any protection in view of bar under Section 18 of the Atrocities Act.

6. The learned advocate appointed for respondent No. 2 also vehemently opposes the appeals. He states that, the allegations are specific. There are abuses in the name of caste.

7. It is seen that, there is no specific role attributed to any of the appellants. The allegations thus appear to be vague. There is no explanation for delay in lodging the FIR. The statements supporting the FIR are the statements of the family members of the informant. All these statements are recorded on 11.10.2024 i.e. after ten days of lodging of the FIR and after 12-13 days after the incident. This Court is not convinced by the arguments of the learned A.P.P. and learned advocate for respondent No. 2 for the reason that there is no specific allegation against any of the accused specifically. This Court has doubt

about the case being made out to attract the provisions of the Atrocities Act. It appears that the learned Trial Judge has only considered the provisions of Section 18 of the Atrocities Act. It appears that the learned Trial Court is swayed away only by the allegations made in the FIR and has passed an order erroneously. Considering the above, following order :

ORDER

- (I) The criminal appeals stand allowed.
- (II) The impugned order dated 24.10.2024 passed by the learned Additional Sessions Judge, Bhokar, Dist. Nanded is quashed and set aside.
- (III) The appellants are directed to be released on bail in the event of arrest in connection with FIR No. 248/2024 registered with Himayatnagar Police Station, Nanded for the offences punishable under Sections 296, 324 (4), 351 (2), 3 (5) of the B.N.S. and under Section 3 (1) (r) and 3 (1) (s) of the Atrocities Act on furnishing P.R. bond in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) each with solvent surety in the like amount.
- (IV) The appellants shall not try to contact the informant and the witnesses. They shall co-operate in the investigation. They shall

remain present as and when called by the investigating officer.

(V) The appellants shall furnish their residential address and mobile number.

(VI) With this, the criminal appeals stand disposed of.

(VII) The learned advocate for respondent No. 2 is appointed by this Court. He shall be entitled to the remuneration as per the rules.

(KISHORE C. SANT, J.)

PS.B.