



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

62 CRIMINAL APPEAL NO. 80 OF 2025

**PANDURANG RAJENDRA KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Appellant : Mr.Rahul R Karpe
APP for Respondent/State : Mrs.Ashlesha S.Deshmukh
Advocate for Respondent No.3 : Mrs.Sumedha Thombre
(Appointed Through Legal Aid)

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CORAM : SHAILESH P. BRAHME, J.
DATE : 15th APRIL 2025

PER COURT :

. Heard both sides.

2. Appellant is apprehending his arrest in furtherance of C.R No. 0003 of 2025 registered with Kallam police station, District Osmanabad For the offence punishable under Sections 115(2), 352, 351(2) of Bhartiya Nyaya Sanhita, 2023 and 3(1)(r), 3(1)(s) of Scheduled Castes and Scheduled Tribes, (Prevention of Atrocities) Act.

3. Appellant is already protected by order dated 06.02.2025. There is no grievance by the respondents regarding breach of conditions imposed vide interim order.

4. First information report discloses that the incident took place

on 26.11.2024. The informant, her husband and son were abused and manhandled by the appellant by hurling casteist abuses.

4. I am guided by law laid down by Supreme Court in the matter of **Hitesh Verma vs. State of Uttarakhand And Another** reported in (2020) 10 SCC 710. Following are the relevant extracts which I propose to follow :

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

5. Learned APP would submit that there are specific averments in the first information report which are corroborated by statements of eye witnesses. It is further pointed out from the original papers that injury certificate of the informant and the eye-witnesses support the prosecution theory. Learned counsel for the Respondent No.2 submits that there is bar under Section 18. She would further submit that prima-facie case is made out from the report.

6. First information report is silent regarding social status of the appellant and the intention to commit overt act so as to attract provisions of The Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Act, 1989. Although the incident in question can be said to have occurred within a public view and there are eye witnesses for the same, that is not sufficient to prima-facie come to conclusion that offence alleged against the appellant gets attracted. Therefore, injury certificate or the statements of the witnesses are not sufficient to refuse pre-arrest protection. For the reasons stated in the interim order as well as recorded in these minutes, I am inclined to allow criminal appeal. Hence, I pass following order :

ORDER

- a) Criminal Appeal is allowed.
- b) Impugned order dated 14.01.2025 passed by Learned Additioinal Sessions Judge, Kallam, District Dharashiv below Exhibit-1 in Criminal Bail Application No. 02 of 2025 is quashed and set-aside.
- c) Interim order dated 06.02.2025 passed by this Court is confirmed.
- d) Learned counsel for the Respondent No.3 has rendered able assistance to this Court, hence Legal Aid Services Committee shall quantify her fees.

[SHAILESH P BRAHME, J.]