

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1006 OF 2025**

Abhishek Ramkumar Dubey	... Appellant
Versus	
The State of Maharashtra & Anr.	... Respondents

Ms. Neha Bhavsar, Advocate for the Appellant.
Mr. A. S. Gavai, APP for Respondent No.1-State.
Mr. Nilesh Navale i/b. Mr. Susmit Phatale, Advocate for Respondent No.2.
PSI-Shri A. S. Pawar, Mahatma Phule Chowk Police Station, present.

**CORAM : R. M. JOSHI, J.
DATED : 20th NOVEMBER, 2025.**

P.C. :

1. This appeal is against the rejection of anticipatory bail application filed by the appellant in connection with Crime No.632 of 2022 registered with Mahatma Phule Chowk Police Station for the offences punishable under Sections 420, 406, 468 read with Section 34 of the Indian Penal Code 1860 with Sections 3(1)(r),(s), (zc) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (for short "SC & ST Act").

2. Learned counsel for the appellant apart from drawing attention of the Court to the facts of the case, essentially argued that the alleged statement in respect of the caste of the informant is said to have been made in presence of Abhijit Ingle and Ajay Awate. It is her contention that

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from the statement of Ajay, it can be seen that he admits himself to be the friend of the informant, whereas Abhijit states acquaintance with the informant for last 15 years. She argues that unless this witness was friend of the informant, he had no reason to accompany him to the spot of the incident, since he himself had otherwise no reason to be at spot.

3. In support of her contention, learned counsel for the appellant, has relied on the following judgments :

1. *Hitesh Verma versus The State of Uttrakhand reported in (2020) 10 SCC 710;*
2. *Afshamaskar Laikhkan Pathan and ors. versus The State of Maharashtra 2025 (1) BomCR. (Cri.) 444;*
3. *Mahesh Sakharam Patole and ors. versus The State of Maharashtra reported in 2009 ALL MR (Cri) 1601;*
4. *Balu B. Galande versus The State of Maharashtra 2006 SCC Online Bom 1598;*
5. *V. P. Shetty versus Senior Inspector of Police, Colaba, reported in 2005 Cri.L.J. 3560;*

Relying upon the judgment of the Hon'ble Supreme Court in ***Hitesh Verma (supra)***, it is argued that the alleged offence cannot be said to have been committed in the presence of independent witnesses, as the incident is stated to have occurred only in the presence of friends. It is further argued that the investigation in the present crime is practically over, and except for the allegation of abuses hurled over caste, no other allegation has been made against the appellant.

4. Learned counsel for respondent No.2 opposed the appeal on the ground that there is specific statement in FIR with regard to the abuses hurled over the caste made against respondent No.2 to insult him and therefore, offence under the Act is made out. It is further submitted that this incident has been witnessed by two independent persons and, therefore, there is no question of any anticipatory bail being granted to the appellant in view of bar created by Section 18 of SC and ST Act. To support his submissions, he relies upon the decision of Hon'ble Supreme Court in **Kiran versus Rajkumar Jivraj Jain and nar. AIR Online 2025 SC 809.**

5. Learned APP also opposed the appeal by contending that in view of provision of Section 18 of the SC and ST Act coupled with allegation made by the informant, this is not a case for grant of anticipatory bail to the appellant.

6. There cannot be any dispute made with regard to the proposition sought to be canvassed that in case the offence has been committed in public view, the embargo created by Section 18 of the SC and ST Act would apply. For that purpose, however, in view of the judgment of the Hon'ble Supreme Court in **Hitesh Verma (supra)** such references i.e. insult is to be caused in the presence of independent person and not in the presence of relatives or friends of the informant.

7. Here in this case though it is sought to be canvassed by respondent No.2 that witnesses were not his friends, however, on the face of it, the statement of Ajay Awate indicates that he admits himself to be the friend of the informant. So also the statement of Abhijit shows that there is acquaintance between them for last 15 years. This Court finds substance in the contention of learned counsel for the appellant that, unless the informant and the said witness were close, there was no reason for this witness to accompany him to the place of the incident, particularly when this witness had no independent purpose to be present there.

8. The Hon'ble Supreme Court in Hitesh Verma (supra) has clearly held that the offence of insulting a member of the Scheduled Caste or Scheduled Tribe would be attracted if the act is committed within 'public view' and consequently embargo of Section 18 of the SC and ST Act would come in play. As against this, in the judgment cited in Kiran (supra), the Hon'ble Supreme Court was dealing with the situation wherein the insult over the caste has been done in presence of number of persons. Pertinently therein no defense was taken with regard to the said persons to be friends or relatives of the informant. Having regard to this fact, a distinction could be drawn with regard to the applicability of the said judgment to the present case.

9. Having regard to the fact that the witnesses who claimed that the incident of abuses hurled on the caste against the informant are

apparently friends of the informant, in view of the judgment of the Supreme Court in the case of **Hitesh Verma (supra)**, the embargo to Section 18 of the SC and ST Act would not arise. Apart from this, now it is admitted position that investigation into the crime is over with filing of charge-sheet. There is no other allegation against the appellant. Hence, the following order :

ORDER

1. The appeal is allowed.
 2. Anticipatory Bail Application filed before the Trial Court stands allowed.
 3. In the event of arrest, the appellant be released on bail on furnishing P.R.Bond in the sum of Rs.15,000/- with one solvent surety in the like amount to the satisfaction of the Trial Court.
- The appeal stands disposed of in above terms.

(R. M. JOSHI, J.)