

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 444 OF 2025

Bharat Kacharu Kokate

...Appellant

Vs.

The State of Maharashtra and Ors.

...Respondents

Adv. Prajwal Padole h/f Adv. Shubhankar Avhad	Advocate for the Appellant
Mr. Amit Icham	Advocate for the Respondent
Ms. S. K. Gajre	APP for Respondent-State
PSI Govind Madhukar Sadgir	Pimpalgaon Police Station

CORAM : S. M. MODAK, J.

DATE : 24th SEPTEMBER 2025

P. C. :-

1. Heard learned Advocate for the first informant, learned APP and learned Advocate for the Respondent Nos. 2 and 3-who are granted anticipatory bail by the Court of the Additional Sessions Judge, Niphad.

2. The first informant wants cancellation of the anticipatory bail granted to them on 04.04.2025. Learned Advocate for the Appellant

has invited my attention to the averments in the F.I.R. and the observations while granting anticipatory bail. He also placed reliance on the observation in case of *Prathvi Raj Chauhan Vs. Union of India and Others*¹.

3. The consideration for grant of bail and consideration for cancellation of bail are different. The cancellation of bail has to be resorted to not because it is asked for, but because case is made out for cancellation of bail, which is already granted. The grounds which are pressed is non consideration of the materials placed before the trial court.

4. The incident in respect of which offence came to be registered took place on 28.01.2025 at about 4.30 p.m.. On that date, the first informant and his father were watering onion crops and at that time accused-Yash Labhade, his father Parshuram Labhade, one Bhaskar, Dinkar and others have come in the field and they have questioned the first informant about morning incident. At about 9.30 a.m., on 28.01.2025, when the accused Yash Labhade was moving from agricultural field on his bicycle, there were hot exchange of the words.

1 (2020) 4 SCC 727

This is a motive for commission of the main incident.

5. The offence came to be registered under Sections 189 (2), 191 (2), 191 (3), 190, 118(1), 115 (2), 352, 351 (2), 324 (2), 74 of the Bharatiya Nyaya Sanhita (BNS) 2023 and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. When these Respondents have applied for anticipatory bail, primarily it was granted for the reason that at the time of incident Respondent-Suraj @ Babu Labhade was not present on the spot, but he was present in the Company by name Seva Trucking Pvt. Limited. The Company has also given a letter to that effect. Another factor considered by the Sessions Court is '*no specific role*' was attributed in the F.I.R.. One more reason cited by the trial Court is there are no abuse on caste by the first informant.

6. Today, it is submitted on behalf of the first informant and learned APP that the caste of the first informant has referred in the F.I.R. and according to learned APP there are three injured. During investigation, the Police have already collected the materials that the Respondent-Suraj was not present at the spot but at some other place. The submission is made that the Respondent and Investigating officer

have not produced the CCTV camera footage of the spot showing that he was not present at the spot. Ultimately, the Court has to consider what material produced before the Court. If any material is not produced, even the Court can take adverse inference at future stage.

7. I have perused the averments in the F.I.R.. No doubt it is true that there is reference of caste of the first informant, however, the context in which such reference is there, I do not find that the learned trial Judge has committed wrong in granting anticipatory bail. Even now, the charge-sheet is filed, mean to say, custodial interrogation of this Respondent is not required.

8. I find no merits in this appeal. Hence, appeal is dismissed.

[S. M. MODAK, J.]