



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO.6 OF 2025

(Nikash Dinkar Tamanar and anr. Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.V. Karnavat, Advocate for the appellants.
Mr. N.B. Jawade, APP for the State.
Mr. N.D. Dawda, Advocate (appointed) for respondent No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 25, 2025

Heard.

2. By preferring this appeal, the appellants have challenged the order passed by the Special Judge, Khamgaon, District Buldhana rejecting the application of the present appellants for grant of anticipatory bail in connection with Crime No.266/2024 registered with police station Hiwarkhed, Tahsil Khamgaon, District Buldhana for the offence punishable under Sections 74, 75, 76, 332(c), 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(i) (ii) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989' for short).

3. The appellants are apprehending arrest at the hands of police as crime is registered against them on the basis of the report lodged by the father of the victim on an

allegation that he is residing along with his wife and children. Victim who is his daughter is 13 years of age. On 19/11/2024 when he returned home at about 1.30 AM at the time, his daughter disclosed to him that the present appellants entered in their house and molested her and also outraged her modesty. On the basis of the said report, police have registered the crime against the present appellants.

4. Learned Counsel for the appellants submitted that after registration of the crime, the appellants approached to the Special Court for grant of bail in the event of their arrest but said application was rejected on the ground that *prima facie* case is made out against the present appellants and there is a bar under Section 18. In view of that, they preferred this appeal. He submitted that the appellants are implicated due to the political rivalry. As far as the nature of the incident is concerned which is not probable. In a false and baseless allegations, the appellants are implicated in the alleged offence. The bar is not attracted under Section 18 the Act of 1989. In view of that, the appellants be protected by granting anticipatory bail.

5. Learned APP and learned Counsel for the victim strongly opposed the appeal on the ground that the statement of the victim and the statements of the witnesses discloses the *prima facie* case against the present appellants. It is alleged that the present appellants

attempted to remove the clothes of the victim and molested her and sexually assaulted as well as harassed her. The victim belongs to the scheduled caste, and therefore, bar under Section 18 the Act of 1989 will attract.

6. I have heard learned Counsel for both the parties. On perusal of the investigation papers as well as the statement of the victim it reveals that the victim was subjected for the molestation as well as outraging the modesty. The attempt was made to remove her clothes and sexually assault her. The victim belongs to the scheduled caste. Thus, considering the allegations *prima facie* case is made out against the present appellants. As far as the contention of the appellants that they were implicated due to the political rivalry is not substantiated by any material. Considering that the *prima facie* case is made out against the present appellants bar under Section 18 the Act of 1989 will attract, and therefore, the appeal deserves to be dismissed.

7. Accordingly, the appeal is dismissed.

8. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)