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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.16 OF 2025

Namdev Narayan Wankhede,
Aged 50 years,
Occupation : Private Business,
R/o. Sakhara, Taluka Umarkhed,
District Yavatmal.

..... APPELLANT

// VERSUS //

1. State of Maharashtra
Through, Police Station Officer,
Umarkhed, Taluka Umarkhed,
District Yavatmal.
2. Ambadas Tukaram Muneshwar,
Age adult, Occupation : Labour,
R/o. Village Sakhra,
Taluka Umarkhed, District Yavatmal.

.... RESPONDENTS

Mr. V. R. Thote, Counsel for the appellant.
Mr. Anant Ghogare, APP for respondent No.1/State.
Ms. Neerja G. Chaubey, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03.03.2025

ORAL JUDGMENT :

1. **Admit.**
2. Heard finally with the consent of learned Counsel
appearing for the parties.
3. By preferring this appeal, the appellant has challenged
the order passed by the learned Additional Sessions Judge
(Court No.1), Pusad in Criminal Bail Application No.317/2024 by

(2)

which the anticipatory bail application of the present appellant is rejected on 14.10.2024.

4. The appellant is prosecuted on the basis of the First Information Report lodged by the informant namely Ambadas Tukaram Muneshwar alleging that on 04.04.2024, he had been to the hotel of the present appellant, at that time, present appellant abused him on his caste and he was assaulted by the son of the present appellant by fist and kick blows. On the basis of the said report police have registered the crime.

5. After registration of the crime, the appellant approached to the learned Special Court for grant of bail in the event of arrest, but in view of Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act of 1989'), the present application is rejected by the learned Special Court observing that there is a bar, hence this appeal.

6. Heard learned Counsel for the appellant, who submitted that even accepting the allegation as it is, mere reference of the caste is not sufficient to attract the provisions of the Atrocities Act. He submitted that except the allegation that the present appellant has referred him on his caste, there is no other allegation as to the abuses on the caste are concerned. His custodial interrogation is also not required and in view of that, the appellant be released on bail in the event of his arrest.

(3)

7. Learned APP and learned Counsel for the respondent No.2/complainant strongly opposed the said appeal on the ground that with an intention to humiliate and insult, the present appellant and his son was abused and assaulted to the complainant. The alleged incident has taken place within the purview of the public view, and therefore, the bar under Section 18 of the Act of 1989 will attract, and therefore, the application deserves to be rejected.

8. After hearing both sides and on perusal of the recitals of the FIR and other investigation papers, it reveals that the FIR is lodged only to give a counterblast to the FIR lodged by the co-accused Namdev Narayan Wankhede. As far as the application of the Atrocities Act is concerned, only allegation is that he has referred the informant by his caste. Except the reference of the caste, there is no other material to show that with an intention to humiliate and insult, the abuses were uttered by the present appellant. As per the application of Section 3(1)(r) of the Act of 1989 are concerned, now the Hon'ble Apex Court recently in the case of **Shajan Skaria Vs. The State of Kerala and another** in **Criminal Appeal No.2622/2024 [Arising out of SLP (Crl.) No.8081 of 2023]** decided on **23.08.2024** held that it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to

(4)

a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste.

9. In view of the above observation of the Hon'ble Apex Court in the present case, mere reference of the caste is not sufficient to attract the provisions of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act. Moreover, his custodial interrogation is not required. The bar will not attract, in view of the allegations levelled against the present appellant in the First Information Report. In view of that, I proceed to pass following order:

ORDER

(i) The appeal is allowed.

(ii) The appellant **Namdev Narayan Wankhede** shall be released on anticipatory bail in the event of his arrest, in connection with Crime No.234/2024 registered with Police

(5)

Station Umarkhed, District Yavatmal for the offence punishable under Sections 324, 504, 506, 143, 147, 148 read with Section 149 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, on executing PR Bond of Rs.25,000/- with one solvent surety of the like amount.

(iii) The appellant shall attend the concerned Police Station as and required for the investigation purpose and shall cooperate with the investigating agency.

(iv) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

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

11. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.