



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

CRIMINAL APPEAL NO. 53 OF 2025

APPELLANTS

1. Pundlik @ Kundlik Datta Mohale,
Aged about 26 years, Occu: Unemployed,
R/o Jambharun (Parande), Tq. and
District Washim.
2. Pawan Gajanan Khanzode,
Aged about 26 years, Occu: Unemployed,
R/o Jambharun (Parande) Tq. and District
Washim.

-VERSUS-

RESPONDENTS

1. The State of Maharashtra,
through Police Station, Washim (Rural),
Dist. Washim.
2. XYZ
Crime No. 299/2020
through PSO Washim, Dist. Washim.

Mr. R.S. Kurekar, counsel appellants.
Mrs. Sneha Dhote, APP for respondent/State.
Ms. Kirti Wankhade, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 25/07/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.
3. By preferring this appeal filed under Section 14-A, the appellants have challenged the order passed by the Adhoc District Judge-1 and Additional Sessions Judge, Washim, rejecting the application for grant of anticipatory bail in connection with Crime No. 299/2020 for the offence punishable under Sections 143, 354, 323, 327, 427 read with Section 149 of the Indian Penal Code, 1860; Section 8 of the Prevention of Children from Sexual Offence Act (POCSO) and Sections 3(1)(W)(i)(ii), 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter referred to 'the Act of 1989').
4. The appellants are arraigned as accused on the basis of a report lodged by Laxman Bhagwat Chavahan, on an allegation that on 24/05/2020 the present appellants attempted to abduct his daughter, aged about 12 years, with a sexual intent, and when

he came in front of them, they left the daughter and ran away from the spot. It is further alleged that they have also assaulted him and his wife. On the basis of the said report, police have registered the crime against the present appellants.

5. Heard learned counsel for the appellants, who submitted that the involvement of the present appellants are shown by the informant only due to the previous enmity. As far as the alleged incident is concerned, which is not substantiated by any material. There is also no statement that the appellants were aware that the informant belongs to the Scheduled Caste, and merely because the informant belongs to the Scheduled Caste, they have committed such an act. Thus, the ingredients of the offence are not complied with as far as the custodial interrogation is concerned, which is not required; the bar under Section 18 of the Act of 1989 will not attract. In view of that, learned counsel for the appellants prayed for releasing the appellants on bail in the event of their arrest.

6. Learned APP and learned counsel for the informant strongly opposed the said appeal on the ground that the learned trial Court has considered that there is a bar under Section 18 of

the Act of 1989, and the involvement of the present appellants in the alleged crime is involved. As far as the allegation against the present appellants is concerned, which shows that they have attempted to abduct the minor victim, and as soon as they were seen taking the victim girl, they left the victim girl and thereafter assaulted the informant and his wife. Thus, prima-facie case is made out against the present appellants, and therefore, bar under Section 18 of the Act of 1989 is attracted. In view of that, the appeal deserves to be dismissed.

7. After hearing both sides and on perusal of the entire investigation papers, admittedly in the FIR there is no statement that the appellants were aware the informant belongs to the Scheduled Caste and Scheduled Tribes. Moreover, there is no indication that the appellants abducted the informant's daughter with knowledge of her caste and with sexual intent. Thus, the ingredients that only because the appellants were knowing that the informant belonged to the Scheduled Caste and Scheduled Tribes, the daughter of the informant was abducted by the present appellants are absent in the FIR. As far as the other allegations against the present appellants are concerned, which is only to the

extent that they have assaulted the informant and his wife by means of fist and kick blows. Thus, considering the allegations levelled against the present appellants as ingredients to attract the provisions of the Act of 1989 are absent, the bar under Section 18 will not attract.

8. Moreover, recently in *Criminal Appeal No. 555 of 2018 in the case of Konde Nageshwar Rao Vs A. Srirama Chandra Murty & Anr decided on 23/07/2025*, this aspect is dealt by the Hon'ble Apex Court by referring the earlier decisions in the case of *Masumsha Hasanasha Musalman vs State Of Maharashtra, reported in AIR (2000) 3 SCC 557*, this Court has emphasized that merely because the complainant belongs to the Scheduled Castes or Scheduled Tribes cannot be the sole ground for prosecution. The offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent. The Court should, in such situation be not hesitant to step in and stop the said misuse. Prosecution needs to be quashed at an early stage to prevent undue harassment of the accused where there is clear legal infirmity in the prosecution case, such as

the allegations, even if taken at their face value, do not disclose an offence or the entire case is a bad faith exercise weaponized to settle personal scores, rather than seeking justice.

9. In the light of the above observations, the ingredients of the offence that the present appellants have abducted the minor victim girl with sexual intent merely because she belongs to the Scheduled Caste are absent, and therefore, the bar under Section 18 of the Act of 1989 will not attract. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- a] The criminal appeal is **allowed**.
- b] The order passed by the Adhoc Additional Sessions Judge-1, Washim rejecting the application dated 25/10/2024 in Criminal Bail Application No. 211/2024 is hereby quashed and set aside.
- c] The appellant – *(1) Pundlik @ Kundlik Datta Mohale and (2) Pawan Gajanan Khanzode*, shall be released on anticipatory bail, in connection with Crime No. 299/2020 for the offence punishable

under Sections 143, 354, 323, 327, 427 read with Section 149 of the Indian Penal Code, 1860; Section 8 of the Prevention of Children from Sexual Offence Act (POCSO) and Sections 3(1)(W)(i)(ii), 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter referred to 'the Act of 1989'), on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.

- d] The appellants shall attend the concerned police station once in a week on Monday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- e] The appellant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the case.
- f] The fees of the appointed counsel be quantified as per Rule.

Criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]