



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

CRIMINAL APPEAL NO. 71 OF 2025

APPELLANT

Vijay Kaluram Shinde,  
Aged about 33 years, Occupation :  
Agriculturist, R/o Tighara, Tq.  
Nandgaon Khandeshwar,  
District Amravati.

-VERSUS-

RESPONDENTS

- 1] State of Maharashtra through,  
Police Station Officer, Mangrul  
Chawala, Tq. Nandgaon  
Khandeshwar, District Amravati.
- 2] XYZ (Complainant) Crime No. 4/2025  
Police Station, Mangrul Chawala,  
Tah. Nandgaon Khandeshwar District-  
Amravati.

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Mr. V.A. Kothale, counsel for appellant.  
Ms M.A.Barbde, APP for respondent/State.  
Ms Shreya Bhagat, counsel (appointed) for respondent No.2.  
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CORAM : URMILA JOSHI-PHALKE, J.  
DATE : 27/02/2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.

3. The present appeal is preferred by the appellant challenging the order passed by the Special Judge, Amravati, rejecting the application for grant of anticipatory bail.

4. The appellant is arraigned as an accused. On the basis of the report lodged by a victim aged about 21 years, contending that she belongs to the Adiwasi Community and the present appellant is also from the same village. On 18/01/2025, at about 2.00 pm, when she was proceeding towards her agricultural field, at that time the present appellant came behind her and also expressed that he liked her and thereafter hold her waist, but she fled away by rescuing herself from the clutches of the present appellant. It is alleged that he has outraged her modesty. On the basis of the said report, police have registered the crime against the present appellant.

5. After registration of the crime, he approached the Special Court for grant of bail. The Special Judge, in view of the

bar under Section 18A of the Act, 1989, rejected the application.

6. Heard learned counsel for the appellant, who submitted that as far as the allegations levelled in the FIR is concerned, which is not sufficient to attract the offence against the present appellant. Therefore, the bar under Section 18-A is not attracted, as no prima facie case is made out against the present appellant. Moreover, the custodial interrogation is not required. In view of that, the appeal deserves to be allowed by setting aside the order passed by the Special Judge, rejecting the application.

7. The learned APP and the learned counsel for the victim strongly opposed the same on the ground that the accused following the victim to the college, expressing his feelings, and subsequently catching hold of her waist, are sufficient to demonstrate his intention. Thus, sexual intention can be inferred from these circumstances, and therefore, the bar under Section 18A will apply. In view of that, the application was rightly rejected by the learned Special Court, and no interference is called for.

8. On perusal of the recitals of the FIR and the order passed by the learned Special Court, and the investigation papers, from which it reveals that the present appellant has followed the

victim, expressed his feelings to her, and thereafter caught hold of her waist, thereby outraged her modesty.

9. As far as the basic ingredients for constituting their offence under Section 3(1)(r) are concerned, which requires that the person who has made a grievance should belong to the Scheduled Caste, and there should be intentional insult or intimidation of a member of the Scheduled Caste or Scheduled Tribe, and the accused must do so with intent to humiliate such a person; and accused must do so at any place within public view. Admittedly, the alleged incident has taken place in the agricultural field, which is within the public view. There is no dispute as to the fact that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989, unless such insult or intimidation is on the ground that the victim belongs to the Scheduled Caste or Scheduled Tribe.

10. Here in the present case, the victim belongs to the Scheduled Caste and Scheduled Tribe. The act of the accused itself is sufficient to show his intention; therefore, the bar under Section 18-A will attract. In view of that, a prima facie case is made against the present appellant, and therefore, no interference is

called for.

11. In view of the bar under Section 18-A of the Act of 1989, the application is rightly rejected by the trial Court. Hence, the appeal is devoid of merits and liable to be dismissed. Accordingly, I proceed to pass the following order:

- a] The appeal is **dismissed**.
- b] The fees of the appointed counsel be quantified as per rule.

[URMILA JOSHI-PHALKE, J.]