



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

CRIMINAL APPEAL NO.104 OF 2025

Manoj Bhaskarrao Kumbhare,
Aged 42 years, Occ: Service,
R/o Ambika Nagar, Near Anil Dalan
Kendra, Tapowan Area, Amravati,
Tq. and District: Amravati. **APPELLANT**

...V E R S U S...

1. The State of Maharashtra, through
Police Station Officer, Police Station Gadge Nagar,
Taluka and District: Amravati.
2. Ashok Harimanji Wankhade,
Aged 53 years, R/o New Ambika Nagar,
Near Anil Dalan Kendra, Tapowan Area, Amravati,
Tq. and District: Amravati. **RESPONDENTS**

Mr. M. V. Acharya, Advocate for Appellant.
Mr. V. A. Thakare, APP for Respondent No.1/State.
Mr. N. J. Patil, Advocate for Respondent No.2.

CORAM: **URMILA JOSHI PHALKE, J.**
DATE: **26th MARCH, 2025.**

ORAL JUDGMENT:

1. Heard.
2. Admit.
3. By preferring this appeal, the appellant has challenged
the order passed by the Special Judge and Additional Sessions

Judge, Amravati dated 13.02.2025 by which the application of the present appellant for grant of anticipatory bail is rejected.

4. The appellant who is working as an Assistant Lecture and resident of Amravati approached this Court for grant of anticipatory bail in connection with Crime No.81/2025 registered at Police Station Gadge Nagar, Amravati for the offence punishable under Section 118(1) Bhartiya Nyaya Sanhita read with Section 3(1)(r), 3(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the crime is registered on the basis of respondent no.2 – Ashok Harimanji Wankhade on an allegation that he is a resident of Murtizapur, District Akola and serving. The appellant is residing in front of his house, he is aware that the informant belongs to Scheduled Caste. However, on 14.04.2024 he abused him on his caste. On 28.01.2025 at about 05:45 p.m. in the public view he came on the two-wheeler near to him and abused him by saying “तु साल्या धेडग्या माजला का असे म्हटल्यावरुन मी गाडीच्या खाली उतरलो व मनोज कुभारे याला म्हटले की, सरळ बोला” and hold his collar, torned his clothes and assaulted him by means of bricks due to which he has sustained the injuries. Thereafter, he threatened him by abusing on his caste. On the basis of the said report, police have registered the crime against the

present appellant.

5. Heard learned counsel for the appellant, who submitted that as far as the allegations are concerned which are baseless. The incident has not occurred within the public view only due to the hatred between both of them this false report is filed against the present appellant, the present appellant is serving as an Assistant Lecturer and such type of behaviour is not committed by him but only to harass in this false report. He further submitted that as far as the custodial interrogation is concerned which is not required. In view of that, he be protected by granting anticipatory bail.

6. The learned APP and the learned counsel for the complainant strongly opposed the same on the ground that not only the words of the informant but the entire incident was recorded in a CCTV footage which shows that the present appellant came in front of the informant and who was fully aware that informant belongs to the Scheduled Caste abused him on his caste in a specific words and also assaulted. The medical certificate which is collected during the investigation also substantiate the said fact as the informant has received two injuries in the nature of abrasion and contusion. There are statements of the witnesses

recorded during the investigation which also substantiate the said fact. Thus, bar under Section 18 will attract in view of that, the appeal deserves to be dismissed.

7. After hearing both the sides and on perusal of the investigation papers it reveals that the appellant and the informant are the neighbours. As per the allegation of the informant initially on 14.04.2024 the present appellant abused him and other caste members on their caste. As far as the incident dated 28.01.2025 is concerned it is alleged that the informant was abused on his caste in a filthy language and also threatened him. This entire incident is recorded in a CCTV footage and the CCTV footage *panchnama* is also drawn by the Investigating Agency. Thus, the investigation papers shows the involvement of the present appellant in the alleged offence. The appellant is prosecuted of the offence punishable under Section 3(1)(r), 3(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 which shows that when a person who belongs to the Scheduled Caste is intention inserted or intimated by a person who is not of a Scheduled Caste or Scheduled Tribe with intention to humiliate a member of Scheduled Caste or Scheduled Tribe in any place within the public view said to have committed the offence

punishable under Section 3(1)(r), 3(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. As far as the public view is concerned, the First Information Report specifically shows that the alleged incident has taken place on the public road. The CCTV footage *panchanma* also discloses that alleged incident has taken place on the public road. The statements of the witness namely Damni Roshan Bagde also witnessed the said incident, she has also stated that the alleged incident has taken place on the public road. Thus, as far as the aspect of the public view is concerned it reveals that the alleged incident has taken place within the public view. The learned APP vehemently submitted that as the anticipatory bail application is barred under Section 18 the appeal is not maintainable and deserves to be dismissed. In view of Section 18 it shows that nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act. At the stage of grant of an anticipatory bail this Court has to consider the material before it and on examination it is to be ascertained where the bar is attracted or not. It is also well settled that though Section 18 of the Act creates a bar for invoking the provisions of Section 438 Cr.P.C., still it is open for this Court to see whether *prima facie* case

is made out to sustain the prosecution. Section 18-A also states about the bar which says that for the purposes of this section a preliminary enquiry shall not be required for registration of a First Information Report against any person and the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed of an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply. Sub-section (2) of Section 18-A states about the provisions of Section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.

8. In the light of the above provisions the facts of the present case are taken into consideration, the ingredients of the offence reveals from the recitals of the FIR as it is specifically mentioned in the First Information Report as to the knowledge of the present appellant that the informant belongs to the Scheduled Caste. Moreover, the informant and the appellant are neighbours and therefore, knowledge to the present appellant is obvious. The statement of the various witnesses also shows that the alleged incident has taken place within the public view. From the nature of the allegations it reveals that the words used by the present

appellant are with intent to insult and humiliate the informant. Thus, at this stage, *prima facie* material reveals against the present appellant, and therefore, bar under Section 18 will attract. In view of that, the appeal is devoid of merit and liable to be dismissed.

I proceed to pass the following order:

The appeal is hereby dismissed.

(URMILA JOSHI PHALKE, J.)