



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

**CRIMINAL APPEAL NO. 108 OF 2025**

**APPELLANTS**

1. Champat Ganu Thamke,  
Aged about 67 years, Occupation :  
Agriculturist.
2. Prashant Champat Thamke,  
Aged about 32 years, Occupation:  
Agriculturist.
3. Darshana @ Sonu w/o Prashant Thamke,  
Aged about 25 years, Occupation:  
Housewife.
4. Sindhubai w/o Champat Thamke,  
Aged about 51 years, Occupation:  
Agriculturist. The applicant Nos. 2 to 4  
R/o Patharpur, Post Nerad- Purad, Tq.  
Wani, Distt- Yavatmal.

**-VERSUS-**

**RESPONDENTS**

1. The State of Maharashtra, through  
P.S.O., P.S. Mukutban, Tq. Zari-Jamani,  
Distt – Yavatmal as well as Sub-Divisional  
Police Officer, Wani, District Yavatmal.
2. Vijay Nimbaji Gedam,  
Aged about 50 years, Occupation: Labour,  
R/o Patharpur, Po: Nerrad – Pusad, Tq.  
Wani, District Yavatmal.

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Mr. M.I. Dhattrak, counsel for appellant.  
Mr. C.A. Lokhande, APP for respondent/State.  
Mr. R.S. Bhalerao, counsel (appointed) for respondent No.2  
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**CORAM** : **URMILA JOSHI-PHALKE, J.**  
**DATE** : **04/04/2025**

**ORAL JUDGMENT :**

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.
3. By preferring this appeal, the appellants have challenged the order passed by the Special Judge and Additional Sessions Judge-2, Kelapur, District-Yavatmal, rejecting the application of the present appellants for grant of anticipatory bail in connection with Crime No.8/2025 registered with police station Mukutban, Tahsil Zari-Jamani, District Yavatmal for the offences punishable under Sections 3(5), 118(2) and 109 of Bharatiya Nyaya Sanhita, 2023 and Sections 6, 3(2)(va), 3(2)(V), 3(1)(s), 3(1)(r) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The appellants are apprehending arrest at the hands

of police as crime is registered against them, on an allegation that on 23/12/2024 when son of the informant was feeding bread to dog, at that time, the appellant No.4 abused the informant on her caste, and the appellant No.2 Prashant Champat Thamke came there holding stick in his hands as well as the other appellants also came there. They abused the informant and her son on their caste and also assaulted them, due to which the son of the informant has sustained the injuries. On the basis of the said report, police have registered the crime against the present appellants.

5. Learned counsel for the appellants submitted that even accepting the allegation as it is, no offence is made out and the incriminating articles are already seized therefore, the custodial interrogation of the present appellants is not required. He further submitted that bar under Section 18 of the Act of 1989 will not attract. In view of that, he prays for releasing the all the appellants on bail.

6. Learned APP strongly opposed the appeal and submitted that, in view of bar under Section 18 of the Act of 1989, the prayer of the appellant No.4 Sindhubai deserves to be rejected. He further submitted that on perusal of the recitals of the FIR,

specific allegation is levelled against the said Sindhubai and the quarrel was started on a trifle reason, and on that trifle reason, the son of the informant was assaulted, who was admitted in the hospital for ten days. He was under treatment for ten days, as he has sustained the head injury. In view of that, the appeal as far as the appellant No.4 is concerned, deserves to be dismissed.

7. After hearing both sides, and on perusal of the recitals of the FIR, and the investigation papers, the omnibus allegations are levelled against the appellant Nos. 1, 2 and 3, as to the abuses and humiliation and insult on the caste. As far as the appellant No.4 is concerned, against whom the specific allegations are levelled that she has abused the informant and her son on her caste. Whether it attracts the provisions of the Atrocities Act or not, is a matter of consideration. The Hon'ble Apex Court in the case of *Shajan Skaria Vs. The State Of Kerala & anr. in Criminal Appeal No.2622 of 2024 (arising out of SLP (CRL.) No.8081 of 2023) decided on 23/08/2024* wherein it is held 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 Scheduled Caste or Scheduled Tribe. The various decisions which are considered by the Hon'ble Apex Court and it is further held that the purport of the Act, 1989 and 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 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.

8. In view of the above observation if the facts of the present case are taken into consideration admittedly, there is a specific allegations levelled against the appellant no.4, she is aware about the fact that, the informant and her son belongs to the Scheduled Caste. Thus, the prima-facie case is made out against the appellant No.4, in view of that, the appeal deserves to be allowed partly. Accordingly, I proceed to pass the following order:

- a] The appeal is allowed partly.
- b] In the event of the arrest, the appellants –  
**1) Champat Ganu Thamke, 2) Prashant Champat Thamke, 3) Darshana @ Sonu w/o Prashant Thamke** in connection with Crime No.8/2025 registered with police station Mukutban, Tahsil Zari-Jamani, District Yavatmal for the offence punishable under Sections 3(5), 118(2) and 109 of Bharatiya Nyaya Sanhita, 2023 and Sections 6, 3(2)(va), 3(2)(V), 3(1)(s), 3(1)(r) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, shall be released on anticipatory bail on executing P.R. bond of Rs.25,000/- each with one solvent surety each in the like amount.
- c] The appellant Nos. 1 to 3 shall attend the concerned police station as and when required.
- d] The appellants shall not induce, threat or

promise any witnesses who are acquainted with the facts of the case.

- e] The order passed by the Special Judge, Kelapur in Criminal Bail Application No. 12/2025 dated 13/02/2025 is partly quashed and set aside.
- f] The prayer of the appellant No.4 as to the grant of anticipatory bail is hereby **rejected**.
- g] The appellant Nos. 1 to 3 shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.
- h] The contravention of any of the conditions imposed by this Court, would lead to the cancellation of bail.
- i] The fees of the appointed counsel be quantified as per Rule.

9. The criminal appeal is **disposed of** partly.

**[URMILA JOSHI-PHALKE, J.]**