



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

CRIMINAL APPEAL NO.113 OF 2025

1. Jagannath s/o Sadashiv Lanjulkar,
Age - 54 years, Occ : Agriculturist,
R/o Alasana, Tq. Shegaon, Dist. Buldana
2. Yuvraj @ Abhijeet s/o Mugutrao Bele,
Age 22 years, Occ: Labour,
R/o Dasra Nagar, Shegaon,
Tq. Shegaon, Dist. Buldana.
3. Sagar s/o Baliram Dambare,
Age 28 years, Occ: Labour,
R/o Shegaon, Dist. Buldana.
4. Gaurav s/o Jagannath Lanjurkar,
Aged about 23 years, Occ: Agriculturist,
R/o Alasana, Tq. Shegaon,
Dist. Buldana.

...APPELLANTS

VERSUS

1. The State of Maharashtra,
through Police Station Officer,
Police Station Shegaon (Rural),
Tq. Shegaon, Dist. Buldana.
2. Shivaji s/o Dinkar Tandale,
Age 30 years, Occ: Labour,
R/o Alasana, Tq. Shegaon,
Dist. Buldana

...RESPONDENTS

Mr. A.J. Thakkar, Advocate for the appellants.
Ms Swati Kolhe, A.P.P for the State.
Ms Kirti Deshpande, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : APRIL 3, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel for the parties.

2. By this appeal, the appellants have challenged the order passed by the learned Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act dated 14.02.2025 passed in Anticipatory Bail Application No.45/2025 by which the prayer of the present appellants for grant of anticipatory bail is rejected.

3. The appellants have preferred the anticipatory bail application in connection Crime No.167/2024 registered initially under Sections 324, 323, 504, 506, 326 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r)(s), 3(2)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act of 1989'). Initially, the FIR was registered against the present appellants on the basis of report lodged by the informant Shivaji Dinkar Tandle, who belongs to the Chambhar Community. It is alleged that on 11.06.2024 there was hot exchange of words between him and one Jagannath Lanjulkar and Gaurav Lanjulkar. During the exchange of words, he was assaulted by slaps and fist blows and also threatened. On

the basis of the said report, police have registered the crime against them. Subsequently Section 326 of IPC is added. As far as present applicants are concerned initially they were arrested and they were released on bail. After adding of Section 326 of the IPC they are apprehending arrest and they approached to the Special Court for grant of anticipatory bail. Section 326 of IPC is added after recording the statement of the informant subsequently as well as the provisions of the Atrocities Act are made applicable, and therefore, they approached to the Sessions Court but the Special Court rejected the bail application in view of bar under Section 18 of the Act of 1989, hence this appeal.

4. Learned Counsel for the appellants submitted that from the entire recitals of the FIR or the subsequent report filed by the State, it nowhere reveals that knowingly only because the informant belongs to the Scheduled Caste, he is assaulted. He submitted that as far as the application of the provisions of the Atrocities Act itself is doubtful, and therefore, bar under Section 18 of the Act of 1989 will not attract. He submitted that initially the appellants were arrested and they were released on bail. Merely because the provisions of the Atrocities Act are made applicable, their bail cannot be cancelled without following the due procedure and they cannot be arrested. Considering that they be protected by granting anticipatory bail.

5. Learned APP and learned Counsel for respondent No.2 strongly opposed the same and submitted that in view of the bar under Section 18 of the Act of 1989, the application deserves to be rejected. Moreover, the injuries sustained by the injured shows that there was apprehension of death to him, and therefore, considering the nature of injuries, Section 326 of the IPC is added.

6. After hearing both sides and on perusal of the recitals of the FIR and the investigation papers it reveals that as far as the abuses are concerned, there is no single whisper by the informant that he was abused on his caste initially. The recitals of the FIR as to the assault on his name is concerned, it is also silent as to the fact that he is assaulted merely because he belongs to the Scheduled Caste. The basic ingredients for constituting an offence under Section 3(1)(r) of the Act of 1989 that the person should belongs to the Scheduled Caste and accused person must not be a member of Scheduled Caste or Scheduled Tribe, accused must intentionally insult or intimidates member of a Scheduled Caste or a Scheduled Tribe. Accused must do with the intent to humiliate such person an accused must do so at any place within public view. 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. Whether it attracts the provisions of the Atrocities Act or not, is a matter to consider.

7. 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. Considering the allegations as it is which are levelled against the present appellants, the bar under Section 18 of the Act of 1989 will not attract, and therefore, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The appeal is allowed.

(ii) The order dated 14.02.2025 passed by the Additional Sessions Judge, Khamgaon, District Buldhana in Anticipatory Bail Application No.45 of 2025 is hereby quashed and set aside.

(iii) In the event of arrest, the appellants i.e. appellant No.1 - Jagannath s/o Sadashiv Lanjulkar, appellant No.2 - Yuvraj @ Abhijeet s/o Mugutrao Bele, appellant No.3 - Sagar s/o Baliram Dambare and appellant No.4 - Gaurav s/o Jagannath Lanjurkar shall be released on anticipatory bail, in connection with Crime No.167/2024 registered with Police Station Shegaon (Rural), District Buldhana for the offences punishable under Sections 324, 323, 504, 506, 326 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r)(s), 3(2)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities)

Act, on executing a P.R. bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

(iv) The appellants shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. to 1.00 p.m. till filing of the charge-sheet.

(v) The appellants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case either personally or by way of electronic media.

9. The contravention of any of the condition would lead to the cancellation of bail.

10. The appeal is disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*