



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

CRIMINAL APPEAL NO. 138 OF 2025

APPELLANTS

1. Sominath Mansaram Bobade,
Age @ 47 yrs, Occu- Agriculturist.
2. Arjun Mansaram Bobade,
Age @ 42 yrs, Occu- Agriculturist,
Both R/o Village Karla, Tq. Patur,
District Akola.

-VERSUS-

RESPONDENTS

1. The State of Maharashtra, through
Police Station Officer, Police Station
Patur, District Akola.
2. Ramrao Sudama Boadade,
Age @ 57 yrs, Occu- Sarpanch,
R/o Village Karla, Tq. Patur, Dist – Akola.

Mr. S.M. Vaishnav, counsel for appellants.
Ms. Ritu Sharma, APP for respondent/State.
None for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 08/05/2025

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 under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Akola, rejecting the anticipatory bail application of the present appellants in Criminal Application (ABA) No. 91/2025 dated 13/02/2025. Hence, the present appeal is preferred by the appellants.

4. The appellants are apprehending the arrest at the hands of police as the crime is registered on the basis of a report lodged by the informant, namely Ramrao Sudam Bodade, who was acting as a Sarpanch of village Karla, Tah. Patur, District Akola, alleging that the present appellants are interfering in the activities which are carried out for the development of the village. On 05/02/2025 at about 9.00 p.m., appellants went to him and abused him on his caste and also assaulted him by means of knife. On the basis of the said report, police have registered the crime against the present appellants.

5. After registration of the crime, appellants approached the Special Court for grant of anticipatory bail, but in view of the bar under Section 18 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989') the learned Special Court has rejected the application. Hence, this appeal.

6. Heard learned counsel for the appellants, who submitted that, as far as the allegations against the present appellants are concerned, there is only a reference to the caste, even accepting the FIR as it is. He invited my attention towards the WhatsApp Chat and submitted that from the WhatsApp Chat, the language which is used by the informant can be ascertained. As far as the allegations regarding the assault by knife is concerned, simple injury is sustained by the informant, and only to implicate the present appellants in the alleged offence, these false allegations are levelled. In view of that, the bar under Section 18 of the Act of 1989 will not attract, therefore the appellants be protected by granting anticipatory bail.

7. Learned APP strongly opposed the said application on the ground that there is a specific allegation showing that the

informant was abused on his caste. In view of that bar under Section 18 of the Act of 1989 will attract. She further invited my attention towards the medical certificate and submitted that the present appellants came to the spot of the incident along with the preparation by carrying the knife with him. In view of that, the application deserves to be rejected.

8. On hearing both sides and on perusal of the recitals of the FIR, it reveals that there was some communication between the present appellants and the informant on account of the development of the village. The communication of the present appellants as to the development was disliked by the informant, and therefore, he has used some abusive words, which is apparent in the said WhatsApp Chat. As far as the allegations in the First Information Report is concerned, which shows that there is a reference to the caste of the informant, and therefore, it is alleged that the informant was humiliated and insulted by the present appellants.

9. As far as the bar under Section 18 of the Act of 1989 is concerned, the Hon'ble Apex Court recently in the case of *Shajan Skaria Vs The State Of Kerala & Anr, Criminal Appeal No.*

2622 Of 2024 decided on 23/08/2024, wherein considering the ingredients of the offence, the Hon'ble Apex Court held that the ingredients of the offence 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.

10. The Hon'ble Apex Court also considered the earlier decision including ***Hitesh Verma Vs State of Uttarakhand and Another, [(2020) 10 SCC 710]*** and observed 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, 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. He may say so, because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the Scheduled Caste and Scheduled Tribes communities to the reason of their caste.

11. In view of the above observation of the Hon'ble Apex Court, except the reference of the caste there is no other material to attract the bar under Section 18 of the Act of 1989, in view of that, the appellants have made out a case for grant of anticipatory bail. Accordingly, I proceed to pass the following order;

ORDER

- a] The criminal appeal is **allowed**.
- b] The order passed by the Special Judge under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Criminal Application (ABA) No. 91/2025 dated 13/02/2025 is hereby quashed and set aside.

- c] The appellants - **(1) Sominath Mansaram Bobade (2) Arjun Mansaram Bobade** shall be released on anticipatory bail, in connection with Crime No. 40/2025 registered with Patur Police Station, Tah. Patur District Akola for the offences punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 along with Sections 115(2), 118(1), 189(2), 190, 191(2), 191(3), 351(2), 352 of the Bhartiya Nyaya Sanhita, 2023, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.
- d] The appellants shall not induce, threat or promise any witnesses, who are acquainted with the facts of the case.

The criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]