



(1)

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

CRIMINAL APPEAL NO.263 OF 2025

Sayyad Simran,
Age 43 Years,
R/o Behind Chand Hafiz Masjid,
Manek Talkies, Khangarpura, Akola,
Taluka Akola, District Akola.

.... APPELLANT

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Old City Police Station,
Taluka Akola, District Akola.
2. Seema Supaji Arakhrao,
R/o. Jetvan Nagar, Sindhi Camp,
Khadan, Akola.
Taluka Akola, District Akola.

.... RESPONDENT

Mr. Parth Malviya, Counsel for the appellant.
Mr. N. B. Jawade, APP for the respondent No.1/State.
Mr. Yash P. Bage, appointed Counsel for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 05.08.2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. By preferring this appeal, the appellant has challenged the order passed by the learned Additional Sessions Judge and Special Judge, Akola dated 08.05.2025, rejecting the application of the present applicant for grant of anticipatory bail.

(2)

4. Heard learned Counsel for the appellant, who submitted that the appellant was prosecuted for the offence punishable under Sections 118(1), 126(2), 3(5), 351(3), 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

5. He submitted that the allegation is levelled against the present appellant is that the present appellant assaulted the informant and took her in auto rickshaw to the residence of Salma Nayak, wherein also she was assaulted thereafter, some cream was applied which usually used for removal of the hair on her head and chili powder was spread over her eyes as well as put in her private part and she was forced to consume country liquor. On the basis of the said report, police have registered the crime against the present appellant.

6. Learned Counsel for the appellant submitted that after registration of the crime, the appellant approached to the learned Special Court for grant of anticipatory bail, but the same was rejected by observing that in view of the bar under Section 18 of the Act of 1989, the application is not maintainable. Being aggrieved with the same, present appeal is preferred. He submitted that the FIR lodged by the present appellant is prior in point of time and to give a counterblast to the said FIR, this false FIR is lodged

(3)

after a long delay. As far as the allegations are concerned, which are baseless and false. The custodial interrogation of the present appellant is not required, as no weapon was used by the present appellant, as far as the allegation of assault is concerned. He further submitted that the allegation of obtaining the video is also not substantiated by any material and therefore, the physical custody of the present appellant is not required. In view of that, he be protected by granting anticipatory bail.

7. Learned APP and learned Counsel for the respondent No.2 strongly opposed the said appeal, on the ground that the informant is not only assaulted by the present appellant, but the chili powder was put in her private part and also poured in her eyes. The medical certificates are on record. There are statements of witnesses which substantiate the said contention, and therefore, the custodial interrogation is required.

8. On hearing both sides and on perusal of the investigation papers, as far as the application of the provisions of Atrocities Act is concerned, admittedly, initially there was no allegation levelled that the present appellant has abused on her caste. After six months of the incident, when a statement was recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (under Section 164 of the Code of Criminal Procedure), first time this allegation is levelled against the present

(4)

appellant. As far as the other allegation that pouring of the chili powder is concerned, medical certificate nowhere substantiates the same. The injuries sustained are in the nature of the blunt trauma. As far as the custodial interrogation of the present appellant is concerned, which is not required. The only contention of the State is that the mobile phone of the appellant is to be recovered, which can be taken care of by imposing certain conditions on the present appellant. In view of that, the order passed by the learned Special Judge and Additional Sessions Judge, Akola deserves to be quashed and set aside. Accordingly, I proceed to pass following order:

ORDER

(i) Appeal is allowed.

(ii) The order dated 08.05.2025 passed by the learned Special Judge and Additional Sessions Judge, Akola, in Criminal Application (A.B.A.) No.261/2025, is hereby quashed and set aside.

(iii) In the event of arrest, the appellant **Sayyad Simran** shall be released on anticipatory bail in connection with Crime No.569/2024 registered with Old City Police Station, Akola, District Akola, for the offence punishable under Sections 118(1), 126(2), 3(5), 351(3), 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall attend the concerned Police Station on 12.08.2025 and produced his mobile phone and the said period shall be considered as his custody for the purpose of Section 23(2) of the Bharatiya Sakshya

(5)

Adhiniyam, 2023, thereafter, the appellant shall not enter into the vicinity of city Akola, except attending the proceeding of the Court after filing of the charge-sheet.

(v) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

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

10. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.