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

CRIMINAL APPEAL NO.247 OF 2025

Sachin s/o Dashrath Nimkale,
Age – 35 Years, Occupation – Agriculturist,
R/o. Charangaon, At post – Asola,
Taluka Patur, District Akola.

.... APPELLANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Patur,
Taluka Patur, District Akola.
2. Baliram s/o Tulshiram Chavan,
Age – 45 Years, Occupation – Service,
Office at – Tahsil Office, Patur,
Taluka Patur, District Akola,
R/o. Mothi Umari, Akola,
Taluka and District Akola.
(original Complainant)

.... RESPONDENTS

WITH

CRIMINAL APPEAL NO.271 OF 2025

Swapnil s/o Darasingh Pajai,
Age – 26 Years, Occupation : Agriculturist,
R/o Post – Wivara,
Taluka Patur, District Akola.

.... APPELLANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Patur,
Taluka Patur, District Akola.
2. Baliram s/o Tulshiram Chavan,
Age – 45 Years, Occupation – Service,
Office at – Tahsil Office, Patur,
Taluka Patur, District Akola,
R/o. Mothi Umari, Akola,
Taluka and District Akola.
(original Complainant)

.... RESPONDENTS

Ms. Garima Jain, Counsel h/f Mr. S. V. Sirpurkar, Counsel for
the appellants.

Ms. T. H. Udeshi, APP for the respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01.08.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By preferring these appeals, the appellants namely Sachin s/o Dashrath Nimkale and Swapnil s/o Darasingh Pajai preferred these appeals, challenging the order dated 02.05.2025 and 28.05.2025 passed by the learned Additional Sessions Judge, Akola, in Criminal Application (A.B.A.) Nos.279/2025 and 305/2025 respectively, by which the applications of the present appellants for grant of pre-arrest bail are rejected.

4. Heard learned Counsel for the appellants, who submitted that the crime is registered on the basis of report lodged by Naib Tahsildar Baliram Tulshiram Chavhan on an allegation that on 21/04/2025 when he was sitting in his chamber, at that time, applicant Sachin Nimkale and 2-3 persons came in his chamber and enquired that whether one Mujahid Khan is his driver or not. On replying him, he was abused by the present appellants in filthy language. The said communication between the informant and the

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present appellant was also recorded in audio recording and thereafter, they threatened him and left the place. On the basis of the said report, police have registered the crime against the present appellants.

5. Learned Counsel for the appellant submitted that even considering the recitals of the FIR as it is, no offence is made out against the present appellants in view of the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as 'the Atrocities Act' for short). She further submitted that whatever offences are attracted are bailable offences. As far as the bar under Section 18 of the Atrocities Act is concerned, which will not attract as the basic requirement that the statement that the informant belongs to the Scheduled caste is not mentioned in the FIR and the abuses which are narrated by the informant also nowhere attract the provisions of the Atrocities Act. She submitted that as bar is not attracted and the custodial interrogation of the present appellants is not required. In view of that, the ad-interim protection granted to them deserves to be confirmed.

6. Despite notice served on the informant, though he attended on two occasions, subsequently, he remained absent and therefore, the appeals are proceeded in absence of the informant.

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7. Learned APP strongly opposed the appeals and invited my attention towards the observation of the Special Judge while rejecting the applications of the present appellants. She also submitted that there is repeated involvement of the present appellants in the sand excavation prosecutions and before the trial Court, he has not disclosed their criminal antecedents. Thus, considering all these aspects and considering the bar under Section 18 of the Atrocities Act, the appeals deserve to be dismissed.

8. On hearing both sides and on perusal of the recitals of the FIR and investigation papers, admittedly, there is no statement made by the informant that he belongs to the scheduled caste or scheduled tribe and the present appellants were knowing the same. On perusal of the recitals of the FIR, it reveals that there was no abuses as far as his caste is concerned. Even there is no reference of his caste during the communications, therefore, the application of the Atrocities Act itself is doubtful. Now, considering the other allegations, admittedly, the informant was abused in a filthy language but as observed by 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)** 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

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ground that the victim belongs to Scheduled Caste or Scheduled Tribe. Thus, the ingredients of the offence itself appears to be absent in the present case. In view of that the interim protection granted to the present appellants deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal Nos.247/2025 and 271/2025 are allowed.
- (ii) The order passed by the learned Additional Sessions Judge, Akola in Criminal Application (A.B.A.) Nos.279/2025 and 305/2025 dated 02.05.2025 and 28.05.2025 respectively are quashed and set aside.
- (iii) The interim protection granted to the present appellants by order dated 09.05.2025 and 10.06.2025 are hereby confirmed on the condition that the appellants shall attend the concerned police station once in a week i.e. on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.
- (iv) The appellants shall not indulge themselves in criminal activities like sand excavation or threatening or abuses to the public servants. A single incident if reported would lead to the cancellation of bail.
- (v) The appellants 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.
- (vi) The appellants shall furnish their Cell phone numbers and address with address proof before the Investigating Officer.

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(vii) The appellants shall furnish their mobile phone before the Investigating Officer for the purpose of investigation.

The appeals are disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.