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

CRIMINAL APPEAL NO.281 OF 2025

1. Asif Baig s/o Iqbal Baig,
Aged about 23 Years,
Occupation : Agriculturist,
R/o. Shingapur, Taluka Karanja (Lad),
District Washim.
2. Sayyad Rehman s/o. Sayyad Burhan,
Aged about 54 Years,
Occupation : Agriculturist,
R/o. Shingapur, Taluka Karanja (Lad),
District Washim.
3. Sayyad Alim s/o Sayyad Harun,
Aged about 32 Years,
Occupation : Agriculturist,
R/o. Shingapur, Taluka Karanja (Lad),
District Washim.

.... APPELLANTS

// VERSUS //

1. State of Maharashtra,
Police Station Officer,
Police Station, Karanja
Rural, Taluka Karanja,
District Washim.
2. Mukesh Digambar Bhosale,
Aged about 46 Years,
Occupation : Labour,
R/o. Shingapur,
Taluka Karanja, District Washim.

.... RESPONDENTS

Mr. P. W. Mirza, Counsel for the appellants.
Mr. Anant Ghogre, APP for the respondent No.1/State.
Ms. R. K. Swami, appointed Counsel for respondent No.2.

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

ORAL JUDGMENT :

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1. Heard.

2. **Admit.**

3. By preferring this appeal, the appellants have challenged the order dated 09.05.2025 passed by the learned Additional Sessions Judge, Mangrulpir, rejecting the application of the present appellants for grant of anticipatory bail.

4. The learned Counsel for appellants submitted that the appellants are arraigned as accused in connection with Crime No. 386/2024 registered with Police Station Karanja Rural, Taluka Karanja, District Washim for the offences punishable under Sections 103(1), 189(2), 191(2), 191(3), 190, 79, and 351(2) of the Bharatiya Nyaya Sanhita, 2023, and under Sections 3(2)(va), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989'). The report is lodged on the basis of the complaint made by Mukesh Bhosale, who has alleged that on 01.10.2024, all the accused, by forming an unlawful assembly, assaulted the deceased Shivmangal Bhosale by fist and kick blows and caused his death. On the basis of the said report, police have registered the crime. After registration of the crime, the investigation was conducted, during which statements of the relevant witnesses were recorded and panchanamas were prepared. After completion of the investigation, the charge-sheet was filed against the present appellants.

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5. Heard learned Counsel for appellants, who submitted that as far as the present appellants are concerned, whose names are not mentioned in the FIR, no specific role is attributed to them. As far as their names are concerned, which are stated in a supplementary statement, however, no specific role is attributed to them, except their presence. Thus, considering the statements made by the witnesses, admittedly, no specific role or overt act is attributed to them and therefore, their custodial interrogation is not required, as no *prima facie* case is made out and therefore, bar under Section 18 of the Act of 1989 will not attract. In view of that, they be released on anticipatory bail.

6. The learned APP and learned Counsel for the respondent No.2 strongly opposed on the ground that considering the present appellants and other co-accused have formed the unlawful assembly and in furtherance of the common object of the said assembly, assaulted the deceased, due to which, the death of the deceased is occurred. Considering the gravity of the offences, the learned Special Judge has rightly rejected the application, and therefore, no interference is called for.

7. On hearing both sides and on perusal of the investigation papers, admittedly, the names of the present appellants were not mentioned in the First Information Report. The statements of various witnesses are also recorded, they have also

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not assigned any specific role to the present appellants, except their presence. First time their names are appearing in a supplementary statement, which are recorded on the next day of the incident. Even accepting the said statements, there is no specific role attributed to them and the investigation is already completed, charge-sheet is already filed and the incarceration of the present appellants is not required. In view of that, the interim protection granted to the present appellants by order dated 23.06.2025 deserves to be confirmed. In view of that, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 09.05.2025 passed by the learned Additional Sessions Judge, Mangrulpur in Special Case No.73/2024 below Exh. 41, is hereby quashed and set aside.
- (iii) The interim protection granted to the present appellants by order dated 23.06.2025 is hereby confirmed on the condition that the appellants shall attend the concerned Police Station twice in a month on 1st and 15th of every month till culmination of the trial.
- (iv) The appellant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.
- (v) The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of case either physically or electronic media.

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

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9. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.