



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

CRIMINAL APPEAL NO. 287 OF 2025

APPELLANT

Rupali wd/o Sunil Patil,
Age 33 years, Occu- Household,
R/o Badri Complex, Tahsil Malkapur,
District Buldhana.

-VERSUS-

RESPONDENTS

1. The State of Maharashtra,
through Police Station Officer,
Malkapur City, District Buldhana.
2. Smt. Anuma w/o Samadhan Ingale,
Age 46 years, Occu: Housewife,
R/o Madhuban Nagar, Malkapur,
District Buldhana.

Mr. N. Dawada, counsel h/f Mr. A.M. Jaltare, counsel for appellant.
Mrs. M.A.Barbde, APP for respondent/State.
Mr. D.D. Chouragade, counsel for respondent No.2.

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

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of

learned counsels appearing for the parties.

2. By preferring this appeal, the appellant has challenged the order passed by the Special Court, Malkapur, Dist. Buldhana in Criminal Anticipatory Bail Application No.107/2025 registered under Sections 296, 352, 351(2) r/w Section 3(5) of the Bhartiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

3. The learned counsel for the appellant submitted that initially, a Crime No.269/2025 was registered against the husband of the informant on an allegation that he had subjected her for sexual harassment and demanded sexual favours from the present appellant and also subjected her for forceful sexual assault. To give a counterblast to the same report, a false report is filed against the present appellant. Moreover, omnibus allegations are levelled against the present appellant, and the alleged incident also did not occur within the public view. As far as custodial interrogation of the present appellant is concerned, which is not required, the bar under Section 18 of the Atrocities Act will not attract as there is an omnibus allegation against all the accused persons. In view of that,

interim protection granted to the appellant deserves to be confirmed.

4. Learned APP strongly opposed the said prayer on the ground that, in view of the bar under Section 18 of the Atrocities Act, the prayer of the present appellant for grant of anticipatory bail deserves to be rejected. Learned APP invited my attention towards the recitals of the FIR and the investigation papers, and submitted that there is a specific allegation as far as the abuses on the caste are concerned, and therefore, the bar under Section 18 of the Atrocities Act will attract.

5. Learned counsel for the respondent No.2 also reiterated the same contention, and invited my attention towards the FIR and submitted that it is not a counterblast to the earlier lodged FIR. He submitted that the FIR and spot panchanama reveal that the alleged incident occurred in public view, and therefore, the bar under Section 18 of the Atrocities Act will attract. In view of that, the appeal deserves to be dismissed.

6. On hearing both sides and on perusal of the recitals of the FIR and the other documents, it reveals that initially the present appellant filed an FIR against the husband of the present

informant, alleging that she was subjected for the forceful sexual assault by the husband of the informant and the other accused persons, and subsequently, the FIR came to be lodged. On appreciating the recitals of the FIR, it reveals that omnibus allegations are levelled against the present appellant. There is no specific allegations to the extent that the present appellant has used the abusive words on her caste. Moreover, the alleged incident appears to have occurred in a flat, which is not in a public place. Thus, the alleged incident appears to have occurred not within the public view. Therefore, the bar under Section 18 of the Atrocities Act will not attract.

7. Moreover, 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. Furthermore, recently in ***Criminal Appeal No. 555 of 2018 in the case of Konde Nageshwar Rao Vs A. Srirama Chandra Murty & Anr decided on 23/07/2025***, this aspect is dealt by the Hon'ble Apex Court by referring the earlier decisions in the case of ***Masumsha Hasanasha Musalman vs State Of Maharashtra, reported in AIR (2000) 3 SCC 557***, this Court has emphasized that merely because the complainant belongs to the Scheduled Castes or Scheduled Tribes cannot be the sole ground for prosecution. The offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal

scores or to harass individuals cannot be permitted if it is apparent. The Court should, in such situation be not hesitant to step in and stop the said misuse. Prosecution needs to be quashed at an early stage to prevent undue harassment of the accused where there is clear legal infirmity in the prosecution case, such as the allegations, even if taken at their face value, do not disclose an offence or the entire case is a bad faith exercise weaponized to settle personal scores, rather than seeking justice.

9. In view of the above observations of the Hon'ble Apex Court, the present appellant has made out a case for grant of anticipatory bail, as the bar under Section 18 of the Atrocities Act will not attract, in view of that, I proceed to pass the following order :-

ORDER

- a] The criminal appeal is **allowed**.
- b] The interim protection granted to the appellant by order dated 20/06/2025 is hereby confirmed on the condition that, the appellant shall attend the office of the Sub-Divisional Police Officer, (S.D.P.O.), Malkapur once in a week on Sunday

between 10.00 a.m. to 1.00 p.m. and shall co-operate with the investigating agency.

- c] The appellant shall not induce, threat or promise to any witnesses, who are acquainted with the facts of the present case.

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

[URMILA JOSHI-PHALKE, J.]