



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

CRIMINAL APPEAL NO.578 OF 2024

Gahinath s/o Eknath Mhaske
Age 38 years, Occupation – Agriculturist,
R/o Giroli Khd., Tq. Deulgaon (Raja),
District Buldana

...APPELLANT

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station, Deulgaon (Raja),
District Buldana
2. Sau. Sandhya w/o Tryambak Zine,
Age 43 years, Occupation – Cultivator,
R/o Giroli Khd. Deulgaon (Raja),
District Buldana

...RESPONDENTS

Mr. A.J. Thakkar, Advocate for the appellant.
Mrs. H.N. Prabhu, A.P.P for the State.
Ms K. Deshpande, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : MARCH 24, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By preferring this appeal, the appellant has challenged the
order passed by the learned Additional Sessions Judge, Buldana and the

Special Judge in Anticipatory Bail Application No.335/2024 by which the prayer for grant of anticipatory bail is rejected.

3. Learned Counsel for the appellant submitted that the informant has lodged report against the present appellant as there is a previous dispute on account of the boundary of the agricultural land since long. The allegation against the present appellant is that on 30/07/2024 he abused the informant along with the other co-accused. In fact, these allegations are baseless and omnibus. He further submitted that the other allegation is only to the extent of manhandling the informant. Thus, the offence is not made out against the present appellant, and therefore, bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act of 1989') will not attract. In view that, he be protected by granting anticipatory bail.

4. Learned APP and learned Counsel for respondent No.2 strongly opposed the appeal and submitted that in view of the bar under Section 18 of the Act of 1989, the prayer for grant of anticipatory bail deserves to be rejected. There is a specific allegation against the present appellant that he has abused the informant on her caste. In view of that, the order passed by the Additional Sessions Judge, Buldana and the Special Judge deserves to be maintained.

5. I have heard learned Counsel for both the sides. Perused the recitals of the FIR as well as the investigation papers from which it reveals that there was a previous dispute between the appellant and the informant on account of the agricultural land. As far as the allegations are concerned, omnibus allegation is levelled against the appellant that he has abused the informant on her caste and other allegation as to the assault is concerned which is only to the extent of manhandling. Thus, considering the nature of the allegations, the bar under Section 18 of the Act of 1989 is not attracted, and therefore, the appellant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass following order:

(i) The appeal is allowed.

(ii) The order dated 19/09/2024 passed by the Additional Sessions Judge, Buldana and the Special Judge in Anticipatory Bail Application No.335/2024 rejecting the anticipatory bail application of the appellant is hereby quashed and set aside.

(iii) In the event of arrest, the appellant - Gahinath s/o Eknath Mhaske in connection with Crime No.297/2024 registered with Police Station, Deulgaon (Raja), District

Buldana for the offence punishable under Sections 296, 115, 351(1), 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on anticipatory bail, 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 as and when required for the investigation purpose and shall cooperate with the investigating agency.

(v) The appellant 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.

6. The contravention of any of the condition would lead to the cancellation of bail.

7. The appeal stands disposed of.

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

(URMILA JOSHI-PHALKE, J.)