



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

CRIMINAL APPEAL NO. 628 OF 2024

APPELLANT

Shashikant s/o Wamanrao Chopde,
Age 35 years, Occu: Private,
R/o Dabki Road, Akola, Tah. and District
Akola.

-VERSUS-

RESPONDENTS

1. State of Maharashtra, through
Police Station Officer, Police Station –
Dabki Road, District Akola.
2. Prashant s/o Kashiram Bhatkar,
Age-52 Years, Occu: Private,
r/o Mothi Umri, Near Rashtriya School,
Dabki Road, Akola.

Mr. A.S. Thogange, counsel for appellant.
Ms. H.N. Prabhu, APP for respondent/State.
Mr. Shrikant Songade, counsel h/f Mr. Z.Z. Haq, counsel for
respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 25/03/2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.

3. By preferring this appeal, the appellant has challenged the order passed by the learned Special Judge, Akola, under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act in Criminal Bail Application 654/2024, by which the anticipatory bail application of the present appellant is rejected.

4. The crime is registered on the basis of the report lodged by Prashant Kashiram Bhatkar vide Crime No.392/2024 registered under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989') and under Section 296 of the Bharatiya Nyaya Sanhita, 2023. The allegation against the present appellant is that the present appellant belongs to the political party Shiv Sena and he is the office bearer of Akola Zilla Shiv Sena. On 10/10/2024 there were some abuses on the WhatsApp as regards to the Gopikishanji Radhakishan Bajoriya. It was further alleged that on 11/10/2024 at about 4.30 to 5.00

p.m., the appellant, along with the other persons, had been to Rudra Fitness Center, and the informant, along with Vikksingh Bawari and Vaibhav Chaudhari, also went there, at the relevant time, there was a hot exchange of words, and during the hot exchange of words, the present appellant abused him on his caste. On the basis of the said report, police have registered the crime against the present appellant, and therefore the appellant approached the Special Court for grant of bail, however, the Special Court rejected the prayer on the ground that there is a bar under Section 18-A of the Act of 1989.

5. Learned counsel for the appellant submitted that as far as the allegations are concerned, which are due to the political rivalry. He submitted that considering that the election is declared and the appellant is involved in canvassing for his party and, therefore, to keep him behind bar, the baseless allegations are levelled against him. He submitted that even accepting the allegation as it is, nowhere it reveal that the appellant had any intention to humiliate him during the hot exchange of words; that sentence might have been used by the present appellant, but considering that every humiliation or every insult does not come

under the provisions of Section 3(1)(r) and the custodial interrogation of the present appellant is not required, he be protected by granting anticipatory bail.

6. Learned APP and learned counsel for the complainant strongly opposed the said appeal on the ground that there is a bar under Section 18-A of the Act of 1989. Moreover, the appellant is not cooperating with the investigating agency. It is further submitted that considering the bar under Section 18-A, the appeal deserves to be dismissed.

7. After hearing the learned counsel for the appellant, learned APP for the State, and the learned counsel for the complainant, and perused the recitals of the FIR, there is no dispute that the present appellant belongs to the Shiv Sena Party. There is also no dispute that the elections are declared and the appellant, who is the office bearer of the said party, had been to the Gym, wherein there was a dispute between the informant and the present appellant and the other person. It is alleged that the present appellant has used humiliating words against the informant on his caste. On perusal of the allegations, it reveals that the reference of the caste was uttered allegedly by the present

appellant. This aspect was also dealt with by the Hon'ble Apex Court recently in the case of *Shajan Skaria Vs. The State of Kerala and another in Criminal Appeal No.2622/2024 decided on 23.08.2024*, wherein while dealing basic ingredients of the Section 3(1)(r) which requires to constitute the offence, the Hon'ble Apex Court observes 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. It is further observes that the various decisions rendered by the Apex Court shows that the purport of the Act, 1989 is not 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. We say so because the object behind the enactment of the Act,

1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.

8. In view of the above observations, at this stage, considering the allegations levelled against the present appellant, appellant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass the following order.

- a] The criminal appeal is **allowed**.
- b] The order passed by the Special Judge, Akola under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, in Criminal Bail Application No. 654/2024, rejecting the anticipatory bail application is hereby quashed and set aside.
- c] The order dated 25/10/2024 granting ad-interim protection granted to the present appellant deserves to be confirmed, subject to the condition that the appellant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

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

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

[URMILA JOSHI-PHALKE, J.]