



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

CRIMINAL APPEAL NO.634 OF 2024

1. Gajanan Dagdu Lahudkar,
Aged about 55 Years,
Occupation : Agriculturist.
2. Shivala Ramrao Tale,
Aged about 36 Years,
Occupation : Agriculturist.
3. Ganesh Shivram Kale,
Aged about 65 Years,
Occupation : Agriculturist.
4. Mohan Ganesh Kale,
Aged about 35 Years,
Occupation : Agriculturist.
5. Rambhau Pradhan Punde,
Aged about 45 Years,
Occupation : Agriculturist.
6. Vaibhav @ Chotu Ramdas Mhaisane,
Aged about 36 Years,
Occupation : Agriculturist.
7. Ganesh Ramesh Nimbekar,
Aged about 44 Years,
Occupation : Agriculturist.
8. Vitthal Dilip Punde,
Aged about 20 Years,
Occupation : Student,

All R/o Mazhod,
Taluka and District Akola.

..... APPELLANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Patur,
Taluka Patur, District Akola.

2. Amol s/o Subhash Daberao,
Aged about 33 Years,
Occupation : Agriculturist,
R/o. Belura, Taluka Patur,
District Akola.

.... RESPONDENTS

Mr. Ved R. Deshpande, Counsel for the appellants.
Mr. M. J. Khan, APP for the respondent No.1 /State.
Mr. S. B. Taywade, appointed Counsel for the respondent
No.2.

WITH

CRIMINAL APPEAL NO.635 OF 2024

1. Santosh s/o. Samadhan Tale,
Aged about 48 Years,
Occupation : Agriculturist.
2. Yogesh s/o Santosh Punde,
Aged about 48 Years,
Occupation : Agriculturist.
3. Vilas s/o Nagarao Punde,
Aged about adult Years,
Occupation : Labour,
4. Vinayak s/o Ganesh Kale,
Aged about 39 Years,
Occupation : Labour.

All R/o. Mazhod,
Taluka and District Akola.

.... APPELLANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Patur,
Taluka Patur, District Akola.
2. Amol s/o Subhash Daberao,
Aged about 33 Years,
Occupation : Agriculturist,

R/o. Belura, Taluka Patur,
District Akola.

.... RESPONDENTS

Mr. Ved R. Deshpande, Counsel for the appellants.
Mr. M. J. Khan, APP for the respondent No.1 /State.
Mr. S. B. Taywade, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27.06.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By preferring these appeals, the appellants have challenged the order passed by the learned Special Judge and Additional Sessions Judge, Akola under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by which the applications of the present appellants for grant of anticipatory bail is rejected. In Criminal Appeal No.634/2024 the appellants are, namely, (1) Gajanan Dagdu Lahudkar, (2) Shivala Ramrao Tale, (3) Ganesh Shivram Kale, (4) Mohan Ganesh Kale, (5) Rambhau Pradhan Punde, (6) Vaibhav @ Chotu Ramdas Mhaisane, (7) Ganesh Ramesh Nimbekar and (8) Vitthal Dilip Punde, and in Criminal Appeal No.635/2024 the appellants are, namely, (1) Santosh s/o. Samadhan Tale, (2) Yogesh s/o. Santosh Punde, (3) Vilas s/o. Nagarao Punde and (4) Vinayak s/o. Ganesh Kale have preferred these appeals.

4. The crime is registered on the basis of report lodged by Amol Subhash Daberao under Sections 326(g), 323, 296, 189(2) and 115(2) of the Bharatiya Nyaya Sanhita, 2023 along with Section 3(2)(va), 3(1)(s) and 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989'). It is alleged that the complainant is handicapped and is cultivating 3 acres of 'E' class land. On 27.8.2024 the appellants along with other co-accused came in the said 'E' class land and asked him to vacate the said field. He was asked to vacate the said field within two days and he was assaulted by the present appellants. It is further alleged that the appellant No.1 burnt the fencing and also taken the household articles and thereby caused loss to him. On the basis of the said report, Police have registered the crime against the present appellants.

5. After registration of the crime, the appellants approached the Special Court for grant of anticipatory bail which was rejected in view of bar under Section 18 of the Act of 1989.

6. Learned Counsel for the appellants submitted that as far as allegations are concerned, which are false and baseless. He invited my attention towards various requisitions filed by the present appellants and the other villagers against the informant and other persons alleging that the informant and the persons from his community are not allowing them to graze their cattle on the said

land and also threatened them that they would be implicated in the false case. He submitted that these requisitions to the Police Officer sufficiently shows that this crime is lodged only to keep the present appellants behind bars. In fact, no such incident has taken place. Moreover, he submitted that even accepting the allegations as it is, it is an omnibus allegation levelled against the present appellants and the utterance of the words which was allegedly made by the appellants are in chorus. There is no specific allegations against any of the persons. Considering omnibus allegations, the bar will not attract. In view of that, they be protected by granting anticipatory bail.

7. Learned APP strongly opposed the prayer on the ground that the statements of various witnesses and the statement of the informant specifically make out the case against the present appellants, and therefore, bar under Section 18 of the Act of 1989 will attract. In view of that, both appeals deserve to be dismissed. He further submitted that the filthy language is used by the present appellants, in view of that, the prayer for grant of anticipatory bail deserves to be dismissed.

8. Learned Counsel for respondent No. 2 - informant also endorsed the same contention and submitted that if the present appellants are released on bail, there is apprehension of repetition of the same incident.

9. After hearing both the sides and on perusal of the recitals of the FIR as well as the documents which are filed on record and the statements of the witnesses which shows that there was a dispute between the informant and his community people and the other villagers. The villagers have filed several applications against the informant and the other community members alleging that they are threatened by these persons to implicate them in a false crime. It further appears that general allegations are made against all the appellants as far as the application of the Atrocities Act is concerned. It is an omnibus allegation and the words used are in the nature of a chorus. Thus, considering the bar under Section 18 is concerned, it is now well settled that if *prima faice* case is not made out, the bar will not attract. The application of the Atrocities Act is dealt with by the Hon'ble Apex Court in the case of **Shajan Skaria Vs. The State of Kerala and another, in Criminal Appeal No.2622/2024, decided on 23rd August, 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. By considering the catena of decisions, it is held that offence under Section 3(1)(r) of the Act is not established merely on the fact that complainant is a member of a Scheduled Caste or Scheduled Tribe unless there is intention to humiliate such

member for the reason that he belongs to such community. In other words, it is not the purport of the act that every act of intentional insult or intimidation meted by a person, who is not a member of Scheduled Caste or Scheduled Tribe to a person, who belongs to Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, merely because it is committed against a person who happens to be a member of the Scheduled Caste or Scheduled Tribe.

10. In the light of above observations, if the allegation at this stage on the basis of FIR is considered as well as the investigation papers, it is an omnibus allegation and custodial interrogation is not required and bar is not attracted. In view of that, I proceed to pass following order :

ORDER

- (i) Both appeals are allowed.
- (ii) The order dated 22.10.2024 passed by the learned Special Judge and Additional Sessions Judge, Akola in Criminal Application (A.B.A.) No.620/2024 and Criminal Application (A.B.A.) No.617/2024 are hereby quashed and set aside.
- (iii) In the event of arrest of the appellants, in Criminal Appeal No.634/2024, namely, **(1) Gajanan Dagdu Lahudkar, (2) Shivala Ramrao Tale, (3) Ganesh Shivram Kale, (4) Mohan Ganesh Kale, (5) Rambhau Pradhan Punde, (6) Vaibhav @ Chotu Ramdas Mhaisane, (7) Ganesh Ramesh Nimbekar and (8) Vitthal Dilip Punde**; appellants, in Criminal Appeal No.635/2024, namely, **(1) Santosh**

s/o. Samadhan Tale, (2) Yogesh s/o. Santosh Punde, (3) Vilas s/o. Nagarao Punde and (4) Vinayak s/o. Ganesh Kale, in connection with Crime No.473/2024, registered with Police Station Patur, District Akola for the offences punishable under Sections 326(g), 323, 296, 189(2) and 115(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(2)(va), 3(1)(s) and 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, shall be released on anticipatory bail on executing P.R. Bond of Rs.25,000/- each with one solvent surety in the like amount.

(iv) The appellants 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 the present case.

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

12. Both appeals are disposed of.

(URMILA JOSHI-PHALKE, J.)