



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

CRIMINAL APPEAL NO.636 OF 2024

1. Gajanan Dagdu Lahudkar,
Aged about 55 Years,
Occupation : Agriculturist.
2. Mohan Ganesh Kale,
Aged about 35 Years,
Occupation : Agriculturist.
3. Rambhau Pradhan Punde,
Aged about 45 Years,
Occupation : Agriculturist.
4. Ganesh Ramesh Nimbekar,
Aged about 44 Years,
Occupation : Agriculturist.
5. Nitin Hardas Punde,
Aged about 26 Years,
Occupation : Agriculturist.
6. Mahadeo s/o Devidas Punde,
Aged 37 Years,
Occupation : Agriculturist.
7. Anil Ramdas Mhaisane,
Aged about 44 Years,
Occupation : Agriculturist.

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. Pramod Mahadeo Solanke,
Aged about 45 Years,
Occupation : Agriculturist,

R/o. Mazhod,
Taluka and District Akola.

.... RESPONDENTS

Mr. Ved R. Deshpande, Counsel for the appellants.
Mr. M. J. Khan, APP for the respondent No.1 /State.
Mr. Vinay V. Sharma, appointed Counsel for the respondent
No.2.

WITH

CRIMINAL APPEAL NO.637 OF 2024

1. Vilas Nagorav Punde,
Aged adult, Occupation : Labour.
2. Ram Mahadeo Nimbekar,
Aged about 26 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. Pramod Mahadeo Solanke,
Aged about 45 Years,
Occupation : Agriculturist,
R/o. Mazhod,
Taluka and District Akola.

.... RESPONDENTS

Mr. Ved R. Deshpande, Counsel for the appellants.
Mr. M. J. Khan, APP for the respondent No.1 /State.
Mr. Vinay V. Sharma, appointed Counsel for the respondent
No.2.

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

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. Present appeals are preferred under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 21.10.2024 passed by the learned Special Judge/Additional Sessions Judge, Akola in Criminal Bail Application Nos.619/2024 and 631/2024 by which the applications of the appellants for grant of anticipatory bail are rejected.

4. The crime is registered against them on the basis of report lodged by Pramod Mahadeo Solankhe on an allegations that on 23.8.2024 at about 3.00 p.m. when he along with his mother was working in his agricultural field at that time, appellants entered into his agricultural field and asked them to vacate the said land and abused them in filthy language. On the basis of the said report, Police have registered the crime under Sections 74, 75(1), 189(1), 296, 115(2) and 324(1) of the Bharatiya Nyaya Sanhita, 2023 along with Section 3(2)(va), 3(1)(w), 3(1)(w)(i), 3(i)(w)(ii) and 3(1) (r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989).

5. After registration of the crime, the appellants approached to the Special Court for grant of bail but same was rejected, hence these appeals.

6. Learned Counsel for the appellants submitted that 'E' class land is illegally occupied by the complainant and the said land is used by the other agriculturists for grazing the cattle and on that ground there was dispute between the villagers and the informant and the community people. He invited my attention towards the previous complaint filed by the appellant No.7 Anil Ramdas Mhaisane against the informant. There are several requisitions filed by the villagers regarding the conduct of the informant and to give counterblast to the said complaint, the first information report was lodged. He submitted that even accepting the allegations as it is, there is omnibus allegation. No specific role is attributed to any of the appellants. In view of that, bar will not attract.

7. Learned APP and learned Counsel for the respondent No.2 - complainant strongly opposed the appeals and submitted that there are statements of the witnesses which shows that the informant was insulted and humiliated by the present appellants by using the filthy language, and therefore, bar under Section 18 of the Act of 1989 will attract.

8. 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 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 of the Act of 1989 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.

9. 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, 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 21.10.2024 passed by the learned Special Judge and Additional Sessions Judge, Akola in Criminal Bail Application No.619/2024 and Criminal Bail Application No.631/2024 are hereby quashed and set aside.

(iii) In the event of arrest of the applicants, in Criminal Appeal No.636/2024, namely, **(1) Gajanan Dagdu Lahudkar, (2) Mohan Ganesh Kale, (3) Rambhau Pradhan Punde, (4) Ganesh Ramesh Nimbekar, (5) Nitin Hardas Punde (6) Mahadeo Devidas Punde and (7) Anil Ramdas Mhaisane** and in Criminal Appeal No.637/2024, namely, **(1) Vilas Nagorav Punde, (2) Ram Mahadeo Nimbekar** in connection with Crime No.471/2024, registered with Police Station Patur, District Akola for the offences punishable under Sections 74, 75(1), 189(1), 296,

115(2) and 324(1) of the Bharatiya Nyaya Sanhita, 2023 along with Section 3(2)(va), 3(1)(w), 3(1)(w)(i), 3(i)(w)(ii) and 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants 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.

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

11. Both appeals are disposed of.

(URMILA JOSHI-PHALKE, J.)