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

CRIMINAL APPEAL NO.709 OF 2024

Anil Bansi Rathod,
Age – 42 Years,
Occupation – Labour,
R/o Mandava, Pusad,
Tahsil : Pusad, District : Yavatmal.

..... APPELLANT

// VERSUS //

1] State of Maharashtra,
through Police Station Officer,
Pusad Rural Police Station,
Tahsil : Pusad, District : Yavatmal.

2] Narayan Limbaji Ghavas,
In Crime No.734/2024
dated 26-09-2024 registered
by P.S.O. Pusad Rural,
Tahsil : Pusad, District : Yavatmal,
R/o Mandwa, Taluka : Pusad,
District : Yavatmal.

[Original Informant]

.... RESPONDENTS

Mr. Shaharukh Shafik Sheikh, Counsel for the appellant.
Ms. H. N. Prabhu, APP for the respondent No.1 /State.
Mr. P. S. Lingayat, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21.04.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By this appeal, the appellant has challenged the order
passed by the learned Special Judge and Additional Sessions Judge,

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(Court No.1), Pusad in Criminal Bail Application No.379/2024 by which the application of the present appellant for grant of anticipatory bail is rejected.

4. The appellant is apprehending the arrest at the hands of police as crime is registered against him on the basis of a report lodged by one Narayan Limbaji Ghavas alleging that there was a love affair between his son and the daughter of Dhayneshwar Sakhare, and therefore, they both have committed suicide, and the family members of the boy were suspecting that it is the family members of the girl who committed the murder, and since then, there has been a dispute between them. It is alleged that on the day of the incident, the present applicant abused him on the caste, and therefore, he approached the Police Station. On the basis of the said report, police have registered the crime against the present appellant.

5. After registration of the crime, the appellant approached to the learned Special Court for grant of anticipatory bail, the same was rejected, in view of bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'The Act of 1989').

6. Learned Counsel for the appellant appeared through video conferencing and submitted that from the recitals of the FIR, no *prima-facie* case is made out, and therefore, the bar under

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Section 18 of the Act of 1989 will not attract. He invited my attention towards the recitals of the FIR and submitted that neither the caste is disclosed by the informant in the First Information Report and only omnibus allegation is levelled against the present applicant that present applicant has abused him on his caste. He further submitted that at the most, there is only reference to the caste and only reference to the caste is not sufficient. There should be intentional insult or humiliation on the part of the applicant which is essential ingredient to attract the offence punishable under Section 3(1)(i) of the Act of 1989. In view of that, he prays for protection by granting anticipatory bail.

7. Learned APP and learned Counsel for the respondent No.2 - complainant strongly opposed for the same and submitted that the informant was abused within the public view and which is intentional insult, therefore in view of bar under Section 18 of the Act of 1989, the application deserves to be rejected, and the same is rejected by the trial Court and no interference is called for.

8. On hearing both sides and on perusal of the recitals of the FIR, it reveals that only there is an allegation that he was abused on his caste. The exact words used by the present appellant are not mentioned in the FIR. Even accepting the allegation as it is, it is only a reference to the caste, and there are no abuses as far as the recitals of the FIR are concerned. On going through the

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investigation papers, no *prima-facie* case is made against the present applicant, and therefore, bar under Section 18 of the Act of 1989 will not attract. In view of that, the appellant has made out a case for grant of anticipatory bail. In view of that, I proceed to pass the following order:

ORDER

- (i) The appeal is allowed.
- (ii) The impugned order passed by the learned Special Judge and Additional Sessions Judge, (Court No.1), Pusad in Criminal Bail Application No.379/2024 is hereby quashed and set aside.
- (iii) In the event of the arrest, in connection with Crime No.734/2024 registered with Police Station Pusad Rural, Tah. Pusad, District Yavatmal for the offences 351(2), 351(3), 352 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(2)(v)(a), 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant - **Anil Bansi Rathod** shall be released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iv) The applicant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency, after receipt of the notice from the Investigating Officer.
- (v) The Investigating Officer shall send seven days notice in advance if he requires his attendance for the investigation purpose.
- (vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

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9. The fees of the appointed Counsel be quantified as per rules.
10. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.