



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

CRIMINAL APPEAL NO.162 OF 2025

1. Anjali Shriramji Jot
Aged about 60 yrs., Occ. Nil,
R/o Prasad Colony, Umari Pr.
Akola, Akola, Jatharpeth Akola,
Maharashtra-444005.
2. Ashwini Kapil Bajoriya
Age: 35, Occu: Private
R/o Juhi Apartment, Flat No.2,
Near NCC Office, Alsi Plot, Akola,
Akola, Maharashtra-444001.
3. Kapil Ashok Bajoriya
Age:42, Occu: Private
R/o Juhi Apartment, Flat No.2,
Near NCC Office, Alsi Plot, Akola,
Akola, Maharashtra-444001. **APPELLANTS**

...V E R S U S...

State of Maharashtra,
Through Police Station Officer,
Police Station Ramdaspath, Akola,
Tq. And Dist. Akola. **RESPONDENT**

Mr. P. S. Nemade, Advocate for Appellants.
Mr. V. A. Thakare, APP for Respondent/State.

CORAM: **URMILA JOSHI PHALKE, J.**
DATE: **22nd APRIL, 2025.**

ORAL JUDGMENT:

1. Heard.

2. **Admit.**

3. By preferring this appeal, the appellants have challenged the order dated 04.03.2025 passed by the Special Judge, Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, Akola rejecting the application of the present appellants for grant of bail.

4. The first information report was lodged by Advocate Ms. Kalyani Tayde on an allegation that she is residing along with her parents in the Omkar Apartment, Prasad Colony, Jatharpeth, Akola they belongs to the Mahar community and this fact is known to be present appellants as her mother is suffering from cancer she had been to Akola to look after her. At the relevant time, she witnessed that some unknown boys and girls are coming in the building and therefore, she as well as the other residents inquired about the same. At that time, present appellants abused her on her caste and insulted and humiliated her within the public view. On the basis of the said report, police have registered the crime against the present appellants. Thus, the accusation is on the basis of the report lodged by Advocate Ms. Kalayani Manohar Tayde. After registration of the crime present appellants approached to the learned trial court for grant of pre-arrest bail. But their

application was rejected, in view of bar under Section 18 of the Act of 1989.

5. Heard learned counsel Mr. Nemade for the appellants who submitted that as far as the allegations regarding the abuses on the castes are concerned. Mere reference of the caste is not sufficient to attract the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submitted that the allegation leveled against the present appellants is omnibus in nature and there is no specific role attributed to the present appellants as far as allegations are concerned. Even the statements of the witnesses nowhere disclose that alleged incident has taken place within the public view. Thus, no specific role is attributed to the appellants and therefore, the bar under Section 18 is not attracted. In view of that, the ingredients of Section 3 of the Act of 1989 are not fulfilled and therefore, the order passed by the learned trial court deserves to be quashed and set aside. In support of his contention he placed reliance on the judgment of this Court in Criminal Appeal No.296/2024 decided on 10.06.2024.

5. Learned APP and learned counsel for the respondent no.2 strongly opposed the said application and invited my

attention towards the various statements of the witnesses who are the eye witnesses to the said incident and submitted that specific allegations are leveled against the present appellants who are not only accused the informant on her caste but also insulted and humiliated her within the public view therefore, the bar under Section 18 of the Act of 1989 will attract. In view of that, the application rightly rejected by the learned trial court and therefore, no interference is called for.

6. While considering the bar under Section 18 and considering the maintainability of the application it is necessary to refer the settled law in view of the judgment of the Full Bench of the Rajasthan High Court. The Full Bench of the Rajasthan High Court in the case of ***Virendra Singh v. State of Rajasthan*** reported in ***2000 CRI. L.J.2899*** wherein it is held that if a person is even alleged of accusation of committing an offence under the Act of 1989 the intention of Section 18 is clearly to debar him from seeking a remedy of anticipatory bail and it is only in the circumstances where there is absolutely no material to infer as to why Section 3 has been applied to implicate a person for an offence under the Act of 1989. The Courts would be justified in a very limited sphere to examine whether the application can be

rejected on the ground of its maintainability. What is intended to be emphasized is that while dealing with an application for anticipatory bail, the Courts would be justified in merely examining as to whether there is at all an accusation against a person for registering a case under Section 3 of the Act of 1989 and once the ingredients of the offence are available in the FIR or the complaint, the Courts would not be justified in entering into a further inquiry by summoning the case diary or any other material as to whether the allegations are true or false or whether there is any preponderance of probability of commission of such an offence. Such an exercise in our view is intended to put a complete bar against entertainment of application of anticipatory bail which is unambiguously laid down under Section 18 of the Act of 1989, which is apparent from the perusal of the section itself and thus the Court at the most would be required to evaluate the FIR itself with a view to find out if the facts emerging therefrom taken at their face value disclosed the existence of the ingredients constituting the alleged offence.

7. The Full Bench of the Rajasthan High Court further considered that it has to be borne in mind that if a person is even alleged of accusation of committing an offence under the S.C. S.T.

Act of 1989 the intention of Section 18 is clearly to debar him from seeking the remedy of anticipatory bail and it is only in the circumstances where there is absolutely no material to infer as to why Section 3 has been applied to implicate a person for an offence under the Act of 1989, the courts would be justified in a very limited sphere.

8. The observation of the Rajasthan High Court is also considered by this Court in the case of *Ratnakala Martandrao Mohite Vs. The State of Maharashtra and another* reported in *2020 ALL MR (Cri.) 334, Navnath s/o Dalsing Rathod @ Aade and others Vs. State of Maharashtra Through Police Inspector Karmad Police Station, Aurangabad and another* reported in *Law Finder Doc Id#1486431* and *Jagdish Sajjankumar Banka Vs. State of Maharashtra and another* reported in *2023 SCC OnLine Bom 581* from which it is clear and reveals that if the Court forms an opinion that there is such material then bar under Section 18 comes into play and if the material is not sufficient to make out a case then the application under Section 438 of the Code of Criminal Procedure can be entertained.

9. In the light of the above observations of the Hon'ble Apex Court if the facts of the present case and the investigation

papers are considered there is specific allegations against the present appellants as to the abuse on the caste are concerned. The statements of the present appellants referring the informant not only on her caste but also there are abuses on the caste sufficiently shows the *prima facie* material against the present appellants. The statements of the eye witnesses also discloses that the alleged incident has taken place within the public view. Thus, in view of the words uttered by the present appellants “तुम सालो धेडगे हो, तुमको इस अपार्टमेंट मे रहने नही दुंगा, तुम्हारा घर से आना जाना मुश्किल कर दुंगा, नही तो आठ दिनो के अंदर फ्लैट छोडकर चले जाओ” referring not only the caste of the informant but also abuses to her attract the *prima facie* case against the present appellants and therefore, bar under Section 18 will attract. In view of that, the learned trial court has rightly considered that the application is not maintainable, in view of the bar under Section 18 of the Act of 1989 and therefore, the appeal deserves to be dismissed. Accordingly, I proceed to pass following order:

The appeal is dismissed.

(URMILA JOSHI PHALKE, J.)