



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

CRIMINAL APPEAL NO.194 OF 2025

(Pramod s/o Suwalal Jain Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Sohoni, Advocate for the appellant.
Mr. C.A. Lokhande, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 15, 2025.

By preferring this appeal, the appellant has challenged the order dated 14/01/2025 passed by the Additional Sessions Judge, Akola in Special Atrocity Case No.193/2024 rejecting the anticipatory bail application of the present appellant.

2. The crime is registered on the basis of report lodged by Gajanan Atmaram Thakare on an allegation that there was a previous dispute between him and the present appellant on account of agricultural land and the civil litigation is pending in the Court. On the day of incident i.e. 24/04/2020 when he was returning towards his home, at that time, present appellant abused him on his caste and also threatened him. On the basis of the said report, police have registered the crime against the present appellant. After registration of the crime, the appellant has approached to the Special Court for grant of anticipatory bail, therefore, the appellant has approached to the Division Bench wherein the Division Bench has

passed the order that no coercive action is to be taken against the present appellant. Thereafter the appellant has also filed the application for quashing of the FIR wherein the investigating agency was directed not to file charge-sheet. Subsequently, the permission was sought by the investigating agency to file the charge-sheet, the same was allowed and further protection to the present appellant was not extended, therefore, he approached to the Special Court for grant of anticipatory bail, the same was rejected. Hence, this appeal.

3. Learned Counsel for the appellant further submitted that after going through the entire recitals of the FIR, no offence is made out as far as the application of the provisions of the Atrocities Act are concerned, and therefore, bar under Section 18 of the Atrocities Act will not attract. He further submitted that the offence under Section 341 and 427 are also not made out. As far as the custodial interrogation is concerned which is not required. In view of that, he be protected by granting ad-interim anticipatory bail.

4. Learned APP strongly opposed the appeal and submitted that the statements of the witnesses discloses the involvement of the present appellant which specifically shows that present appellant has abused the informant on his caste and thereby the bar under Section 18 of the Atrocities Act will attract. In view of that, the appeal devoid of merits and liable to be dismissed.

5. I have heard learned Counsel for both the sides. Perused the recitals of the FIR from which it reveals that there was a previous dispute between the informant and the present appellant on account of agricultural land and the civil litigation is also pending between them. The alleged incident according to the informant has taken place on 24/04/2020 at about 5:45 PM in presence of two witnesses namely Rameshwar Khule and Abhijeet Tajane. It is alleged that present appellant has referred him by his caste and abused him and thus he is humiliated by the present appellant. On the basis of the said FIR, the offence is registered against the present appellant. On perusal of the entire FIR it reveals that there is only a reference to the caste. Moreover, the essential ingredients of Section 3(1)(r) of the Atrocities Act appears to be not fulfilled at this stage. However, it is necessary to go through the investigation papers. Considering the recitals of the FIR, at the stage, the appellant has made out a case for grant of ad-interim protection.

6. The Hon'ble Apex Court in the case of ***Shajan Skaria Vs. The State Of Kerala & anr. in Criminal Appeal No.2622 of 2024 (arising out of SLP (CRL.) No.8081 of 2023)*** decided on 23.08.2024 wherein the Hon'ble Apex Court has considered the ingredients of the offence committed under Section 3(1)(r) of the Atrocities Act. It is held by the Hon'ble Apex Court 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. The various decisions which are considered by the Hon'ble Apex Court and it is further held that the purport of the Act, 1989 and held that it is not the purport of the Act, 1989 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.

7. In view of the above observation, at this stage, there is nothing on record to show that the abuses were intentional only with intention to humiliate the present appellant. In view of that, the appellant has made out a case for grant of ad-interim anticipatory bail. Accordingly, I proceed to pass the following order:

- (i) Issue notice to the respondents, returnable after three weeks.
- (ii) Learned APP waives notice for the State and seeks time to file reply.

(iii) In the event of the arrest, the appellant - Pramod s/o Suwalal Jain in connection with Crime No.337/2020 registered with police station Channi, Taluka Patur, District Akola for the offence punishable under Sections 341, 427, 504 and 506 of the Indian Penal Code and Sections 3(1)(f), 3(1)(g), 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 be released on ad-interim anticipatory bail on executing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall attend the concerned police station once in a week i.e. on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.

(v) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case, either personally or by way of electronic media.

(URMILA JOSHI-PHALKE, J.)