



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

CRIMINAL APPEAL NO. 194 OF 2025

(Pramod s/o Suwalal Jain

Vs.

State of Maharashtra, Thr. PSO Channi, Tq. Patur, Dist, Akola & Anr.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.S. Sohoni, Advocate for the Appellant.

Mr. C.A. Lokhande, APP for the Respondent No.1/State.

Mr. P.R. Parsodkar, Advocate for the Respondent No.2/Complainant.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 25th AUGUST, 2025

1. Heard.

2. **Admit.**

3. 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.

4. The crime is registered on the basis of report lodged by Gajanan Atmaram Thakare on an allegation that due to the 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, and thereafter the Appellant has also 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 and 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 and the same was rejected. Hence, this Appeal.

5. Heard learned Counsel for the Appellant, who 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 of the IPC are also not made out, and therefore, the custodial interrogation is not required.

6. 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 the present Appellant has abused the Informant on his

caste and thereby the bar under Section 18 of the Atrocities Act will attract.

7. Learned Counsel for the Respondent No.2/Informant has also endorsed the same contentions and submitted that in view of the bar the Application was rightly rejected by the Special Court. In support of his contention he relied upon *Vilas Pandurang Pawar & Anr. Vs. State of Maharashtra & Ors., reported in (2012) 8 SCC 795*.

8. On hearing both the sides and on perusal of the the recitals of the FIR from which it reveals that there was a previous enmity 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 05.45 p.m., in presence of two witnesses namely Rameshwar Khule and Abhijeet Tajane. It is alleged that, the present Appellant has referred the Informant 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 and investigation papers 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.

9. 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 of 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 of 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 not attract Section 3(1)(r) of the Act of 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 of 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.

10. In view of the above observation, at this stage, considering the fact that the Appellant has already cooperated with the investigating agency and nothing is on record to show that the abuses were intentional only with intention to humiliate the Informant, and therefore, the interim protection granted to the present Appellant deserves to be confirmed. Accordingly, I proceed to pass the following order:

ORDER

- i. The Appeal is **allowed**.
 - ii. The *ad interim* protection granted to the present Appellant by order dated 15.04.2025, is hereby confirmed.
 - iii. The Appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
 - iv. 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.
11. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)