



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

CRIMINAL APPEAL NO. 223 OF 2025

(Ganesh S/o Shankar Khatkale

Vs.

The State of Maharashtra, Thr. Police Station Officer, Pusad City,
Tq. Pusad, District Yavatmal & 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. V.R. Thote, Advocate for the Appellant.

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

Mr. R.R. Maddalwar, Advocate (Appointed) for the Respondent No.2.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 10th JUNE, 2025

1. Heard.

2. **Admit.**

3. By preferring this Appeal, the Appellant has challenged the order dated 29.03.2025 passed by the learned Additional Sessions Judge-2, Pusad, District Yavatmal in Criminal Bail Application No.94/2025, rejecting the application for grant of anticipatory bail in connection with Crime No.70/2025 registered with Police Station Pusad City, District Yavatmal under Section 74 of Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3(1)(w)(i) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as "the Atrocities Act" for short).

4. The crime was registered on the basis of the report lodged by one Sumitra Rajne on 15.02.2025 with

contention that, she belongs to Andh Adiwasi caste, whereas the Appellant belongs to Maratha caste. On 14.02.2025, at about 11.30 p.m., when she was sleeping in her house, the present Appellant knocked the door of her house. She opened the door, at that time, the present Appellant caught hold her hand and pulled her and thereby outraged her modesty. He was insisting her to come alongwith him in his house, for which, the Victim has denied and shouted loudly, upon which, the neighbourer reached the spot and the present Appellant fled away. On the basis of the said report, Police has registered the crime against the present Appellant.

5. After registration of the crime, the Appellant approached the Special Court for grant of anticipatory bail but the same was rejected by the learned Special Court by observing the bar under Section 18 of the Atrocities Act. Hence, this Appeal.

6. Mr. Thote, learned Counsel for the Appellant, submitted that even accepting the allegations as it is, no offence is made out against the present Appellant, as far as the Atrocities Act is concerned. He submitted that, there is no specific allegation that what type of abuses were used by the present Appellant while insulting or humiliating the Victim. As far as the alleged incident of holding hand and pulling her hand is concerned, which is not supported by any of the independent witnesses. Moreover, the alleged incident has not taken place within the public view. As far as the custodial interrogation is concerned, which is not required. In view of that, the Appellant be protected by granting anticipatory bail.

7. Mr. Lokhande, learned APP for the Respondent No.1/State, strongly opposed the Appeal on the ground that, the Victim belongs to Scheduled Caste and with an intention to sexually harass the Victim, the Appellant knocked the door of her house at 11.30 p.m., and thereafter outraged her modesty by holding her hand and pulling her towards him. This incident was also witnessed by two witnesses. Thus, considering the same, the bar under Section 18 of the Atrocities Act, will attract and in view of that, the Appeal deserves to be dismissed.

8. Mr. Maddalwar, learned appointed Counsel for the Respondent No.2/Victim, also supports the contention of the learned APP for the Respondent No.1/State.

9. After hearing both the parties and on perusal of the entire investigation papers, it reveals that, the alleged incident has taken place in her residential locality at 11.30 p.m. As per the statement of the Victim, the said incident has occurred in her house. The Spot Panchnama shows that, the alleged spot of incident is surrounded by houses of other locals. As per the statement of the Victim, other two ladies after hearing her shout came there but their statements were not recorded. Thus, as far as the allegations are concerned, which is not supported by any of the independent witnesses. Whether outraging of modesty leads with sexual intent or not, is a matter of evidence. At this stage, immediate custodial interrogation of the present Appellant is not required.

10. Whether the bar under Section 18 of the Atrocities Act will attract or not, is to be considered in the light of the

observation of the Hon'ble Apex in the case of *Shajan Skaria Vs. The State Of Kerala & Anr., in Criminal Appeal No. 2622/2024 decided on 23.08.2024*, wherein the Hon'ble Apex Court observed that all insults or intimidations to a member of the Scheduled Castes or Scheduled Tribes will not amount to an offence under the Atrocities Act, unless such insult or intimidation is on the ground that the victim belongs to Scheduled Castes or Scheduled Tribes. It is further observed that, the term 'humiliation' as it appears in Section 3(1)(r) of the Atrocities Act must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members. Thus, for constituting the offence under Section 3(1)(r) of the Atrocities Act, the ingredients of the offence are required to be established. At this stage, still the investigation is in progress. As far as the custodial interrogation of the present Appellant is concerned, which is not required. The bar under Section 18 of the Atrocities Act will not attract. In view of that, the Appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- i. The Appeal is **allowed**.
- ii. The order passed by the learned Additional Sessions Judge-2, Pusad, District Yavatmal in Criminal Bail Application No.94/2025 dated 29.03.2025, rejecting the application for grant of anticipatory bail, is hereby quashed and set aside.

- iii. The Appellant – Ganesh S/o Shankar Khatkale, shall be released on anticipatory bail in the event of his arrest, in connection with Crime No.70/2025 registered with Police Station Pusad City, District Yavatmal under Section 74 of Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3(1)(w)(i), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.R. Bond in the sum 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 Sunday between 10.00 a.m. and 01.00 p.m. 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.
 - vi. Fees of the learned Appointed Counsel for the Victim be quantified as per Rules.
11. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)