



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

CRIMINAL APPEAL NO.236 OF 2025

(Taibai @ Tai w/o Nandu Mohite and anr. 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. M.P. Ladhe, Advocate for the appellants.
Mr. M.K. Pathan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 6, 2025.

Heard.

2. By preferring this appeal, the appellants have challenged the impugned order dated 24/04/2025 passed by the Special Judge and Additional Sessions Judge, Khamgaon, District Buldhana in Criminal Bail Application No.189/2025 rejecting the anticipatory bail application of the present appellant.

3. The present appellants are apprehending arrest at the ends of police in connection with Crime No.105/2025 registered at police station Sonala, District Buldhana for the offence punishable under Sections 74, 75, 115(2), 351(2), 351(3), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The crime is registered on the basis of report lodged by one Gayatri Akash Sagale on an allegation that 10/04/2025 she had been to the house of her cousin sister. At that time, she was abused by the present appellants on her caste and also threatened her. On the basis of the said report, police have registered the crime against the present appellants.

5. Learned Counsel for the appellants submitted that after registration of the crime, the appellants approached to the Special Court for grant of pre-arrest bail but the same was rejected without considering that there was a cross-complaint regarding the said incident. As far as the allegations of abuses on the caste are concerned, general allegations are levelled against the present appellants. The custodial interrogation of the present appellants is not required. Moreover, the bar under Section 18 of the Atrocities Act will not attract as omnibus allegations is levelled against the present appellants, and therefore, they be protected by granting ad-interim anticipatory bail.

6. Learned APP strongly opposed the appeal and submitted that in view of bar under Section 18 of the Atrocities Act, the appeal itself is not maintainable. Learned Special Court has rightly rejected the application. In view of that, the appeal deserves to be dismissed.

7. I have heard learned Counsel for both the sides. On perusal of the recitals of the FIR and the documents filed on record it reveals that regarding the said incident, cross-complaints are filed. As far as the allegations against the present appellants is concerned admittedly, there is no specific allegation against the present appellants. The omnibus allegations is levelled against all the appellants as well as the other co-accused. The issue regarding the bar under Section 18 of the Atrocities Act is recently considered by 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)** wherein the Hon'ble Apex Court has held that :

“The dictum of various decisions that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, 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. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.”

8. In view of the above observation of the Hon’ble Apex Court and considering the allegations levelled against the present appellants, at this stage, the appellants have 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 Summer Vacation, 2025.

(ii) Learned APP waives notice for the State and seeks time to file reply.

(iii) In the event of arrest, the appellants –
1) Taibai @ Tai w/o Nandu Mohite and
2) Chagan s/o Harising Mohite in connection with Crime No.105/2025 registered at police station Sonala, District Buldhana for the

offence punishable under Sections 74, 75, 115(2), 351(2), 351(3), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on ad-interim anticipatory bail, on executing PR. Bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

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

(v) The appellants 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.)