



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

CRIMINAL APPEAL NO. 236 OF 2025

1. Taibai @ Tai W/o Nandu Mohite,
Aged about 37 years, Occ. Labour,
2. Chagan S/o Harising Mohite,
Aged about 72 years, Occ. Labour,
Both R/o Nimkheda, At present
residing at Wasadi, Tahsil-Sangrampur,
District: Buldhana.

APPELLANTS

Versus

1. State of Maharashtra,
Through Police Station Officer,
Sonala Police Station,
District Buldhana, Maharashtra.
2. Smt. Gayatri W/o Akash Sagale,
Aged 22 years, Occ. Housewife,
R/o Wasadi, Tah-Sangrampur,
District: Buldhana

RESPONDENTS

Mr. M.P. Ladhe, Advocate for the Appellants.
Ms. Sneha Dhote, A.P.P. for the Respondent No.1/State.
Mr. R.S. Bhalerao, Advocate (Appointed) for the Respondent
No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 30th JUNE, 2025.

ORAL JUDGMENT :-

1. Heard.

2. **Admit.**

3. By preferring this Appeal, the Appellants had challenged the order passed by the Additional Sessions Judge, Khamgaon, District Buldhana in Bail Application No. 189/2025 dated 24.04.2025 rejecting the application of the present Appellants for grant of anticipatory bail.

4. 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 offences punishable under Sections 74, 75, 115(2), 351(2), 351(3), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “Atrocities Act”).

5. 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.

6. After registration of the crime, the Appellants approached to the Special Court for grant of pre-arrest bail but the same was rejected.

7. Heard learned Counsel for the Appellants, who submitted that, as far as the allegations of abuses on the caste are concerned, general allegations are levelled against the present Appellants i.e. the omnibus allegations. The bar under Section 18 of the Atrocities Act will not attract as omnibus allegations are levelled against the present Appellants, and therefore, they be protected by granting ad-interim anticipatory bail.

8. 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, and therefore, the Appeal deserves to be dismissed.

9. Learned Counsel for the Respondent No.2/Complainant, has endorsed the same contentions.

10. On hearing both the sides and 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 are concerned, admittedly, there is no specific allegation against the present Appellants. The omnibus allegations are levelled against the present 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.”

11. In view of the above observations of the Hon’ble Apex Court and considering the allegations levelled against the present Appellants, at this stage, there is omnibus allegations against both the Appellants, and therefore, ad-interim protection granted to the Appellants 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 Appellants by order dated 06.05.2025, is hereby confirmed on the condition that, they shall attend the concerned Police Station once in a week i.e. on every Tuesday between 10.00 a.m. and 01.00 p.m. and shall cooperate with the investigating agency.
- iii.** The order passed by the Additional Sessions Judge, Khamgaon in Bail Application No.189/2025 dated 24.04.2025, rejecting the application for grant of anticipatory bail, is hereby quashed and set aside.

- iv. 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.
- v. Fees of the learned Appointed Counsel be quantified as per rules.

12. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)

S.D.Bhimte