



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

CRIMINAL APPEAL NO.443/2025

(Ayan Khan Ansar Khan Vs. State of Maharashtra, through Police Station Officer, Police Station, Mahagaon, Yavatmal and another)

AND

CRIMINAL APPEAL NO.468/2025

(Ismail Khan @ Sonu Farukh Khan Vs. State of Maharashtra, through Police Station Officer, Police Station, Mahagaon, Yavatmal and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.N. Ali, Advocate for the appellant.

Mr. C.A. Lokhande, A.P.P for the respondent/State.

(..in both appeals)

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 10.12.2025.

Common order

The appellants in both the appeals are apprehending arrest in Crime No.406/2025 for the offence punishable under Sections 118(1), 189(2), 190, 191(2), 191(3) and 352 of the Bhartiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The prosecution case, in brief, is as under:-

When first informant was returning home from his field at around 3 p.m., he saw his cousin Anil arguing with appellants over sand. When he tried to intervene, the appellant Ayan Khan caught his collar and abused him. Thereafter the appellants called their other relatives who assaulted the first informant with iron rod and sticks. When the complainant's mother and sister-in-law tried to help, they were beaten and abused in foul words on their caste. Thereafter the complaint was lodged and the crime is registered.

3. The learned Advocate for the appellants has stated that there is counter complaint lodged by the appellants in this case against the first informant. The appellants and the first informant are the neighbours. There is dispute between both of them. The appellants have not uttered words which humiliates the caste of the first informant. The appellants have relied on the judgment of this Court in the case of *Vijay Mersingh Rathod and another V/s. State of Maharashtra and another* (Criminal Appeal No.737/2023) and *Pandurang Jagan Wabale and another V/s. State of Maharashtra and another* (Criminal Appeal No.770/2023) wherein the observations are made by this Court that it is well settled that merely calling a person by his caste name though may amount to insult or abuse to him, it can be said to be with intent to humiliate such person to show that the intentional insults or intimidates, intimidation was with intent to humiliate a person, some more material is required which is absent and not revealed from the recitals of the FIR. The allegations only referred that the present appellants have referred the informant by her caste. Thus, the basic ingredients of the offence appears to be absent as the alleged incident nowhere discloses to be occurred with the public view and it also nowhere reveals from the recitals of the FIR that with intent to insult and humiliate the informant, the alleged words are used by the appellant Ayan Khan.

4. There is no any independent witness who has seen the incident. Moreover, the counter complaint is there. Considering the allegations made, prayed to protect the appellants by granting anticipatory bail.

5. The learned A.P.P. opposed the appeal stating that incident took place on road. It is in public view. The appellant Ayan Khan has

uttered the words which insults the caste of the first informant. He has relied on the recent judgment of the Hon'ble Apex Court in Kiran V/s. Rajkumar Jivraj Jain and another (Special Leave Petition (Cri.) No.8169/2025) wherein the Hon'ble Apex Court in paras 6 and 7 has observed as under:-

“6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes, Act, 1989 with express language excludes the applicability of Section 438, Cr.PC, it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1.

6.2.

7. Reverting to the facts of the present case, the respondent-accused was not a member of Scheduled Caste or Scheduled Tribe community. The appellant belonged to scheduled caste community known as "Mang" or "Matang". The allegations made in the FIR lodged by the complainant was that he was addressed by the accused with abusive casteist utterance "Mangatyano, you are became very arrogant, you are staying in the village and voting against". The appellant was addressed as above by the accused outside the house of the appellant where others were present.”

The learned A.P.P. has submitted that mere utterance of words on caste is sufficient to attract the offence under the Atrocities Act. Hence, prayed to reject the appeal.

6. Heard both sides, perused the record and considered the judgments cited by the parties.

7. On perusal of F.I.R it appears that the words are used naming the caste. It is in public place but no statement of any independent witness is recorded stating that incident was seen by any one and any one has heard the words humiliating or insulting the caste of the first informant. Statement of witness which is recorded during enquiry is of the relative i.e. sister-in-law of the first informant which do not suggest that the incident took place in public view. From the observations made by the Hon'ble Apex Court cited by learned A.P.P. it appears that presence of other persons is necessary. Here the utterance of words is not heard by any third person. As per the judgment of this court cited by the appellants it is humiliation of said person. Considering the words uttered by appellant Ayan Khan, pendency of the counter complaint, the earlier dispute between both the parties, the appellants in both the appeals are protected by granting anticipatory bail.

i) It is directed that in the event of arrest of the appellants - Ayan Khan Ansar Khan and Ismail Khan @ Sonu Farukh Khan, in connection with Crime No.406/2025 for the offence punishable under Sections 118(1), 189(2), 190, 191(2), 191(3) and 352 of the Bhartiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on bail on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand each with one solvent surety in the like amount.

ii) The appellants shall not in any way tamper with the prosecution evidence.

- iii) The appellants shall not pressurize or threaten the prosecution witnesses.
 - iv) The appellants shall attend the concerned police station on every Monday, Thursday and Saturday between 7:00 p.m. and 9:00 p.m.
 - v) The appellants shall co-operate with the Investigating Officer.
 - vi) The appellants are directed not to enter area where the first informant stays.
8. Criminal Appeals are disposed of accordingly.

(MRS.VRUSHALI V.JOSHI, J.)