



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

913 CRIMINAL APPEAL NO. 735 OF 2025

Vijay w/o Pandit Pawar,
Age; 40 years, Occ; Pvt. Service,
R/o; Dhakephal Tanda,
Tq. Ghansawangi, Dist. Jalna.

...APPELLANT

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station Ghansawangi
Tq. Ghansawangi & Dist. Jalna
2. Vilas s/o Sitaram Yede,
Age; 28 years, Occ; Agri,
R/o; Dhakephal, Tq. Ghansawangi
District ; Jalna.

...RESPONDENTS.

AND

CRIMINAL APPEAL NO. 753 OF 2025

1. Navnath s/o Madan Pawar,
Age; 40 years, Occ; Labour,
R/o; Dhakephal Tanda, Tq. Ghansawangi,
Dist. Jalna.
2. Raju s/o Uttam Pawar,
Age; 49 years, Occ; Labour,
R/o; Dhakephal Tanda, Tq. Ghansawangi,
Dist. Jalna.
3. Viswanath @ Visnu s/o Tarachand Pawar,
Age; 45 years, Occ; Labour,
R/o; Boregaon Tanda, Tq. Ghansawangi

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station Ghansawangi

Tq. Ghansawangi & Dist. Jalna

2. Vilas s/o Sitaram Yede,
Age; 28 years, Occ; Agri,
R/o; Dhakephal, Tq. Ghansawangi
District ; Jalna.

...RESPONDENTS.

...

Advocate for Appellant : Mr. Bhagure Pralhad Chagan

APP for Respondents/State : Mr.K.S. Patil

Advocate for Respondent No.2 : Mr. S.S. Naikwade h/f Mr. Bagal Vishal
A. and Mr.Taur Kishor Tarachand

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CORAM : Y.G. KHOBRAGADE, J.

DATE : 13.02.2026

PER COURT :

1. In both these appeals, the applicants/accused in Crime No. 490 of 2025 are taking exception to the order dated 29.09.2025, passed in Criminal Bail Application Nos. 427 of 2025 and 428 of 2025 respectively by the learned Additional Sessions Judge/Special Judge, Ambad, District Jalna, thereby declining to enlarge the appellants/accused on pre-arrest bail.

2. Having regard to the submissions canvassed on behalf of the learned counsel appearing for both the sides, I have gone through the appeal memo, FIR and reply-affidavit filed on behalf of the prosecution.

3. On the face of record, it appears that, on 17.09.2025, the respondent No. 2-informant lodged a oral report with Ghanasawangi Police Station, District Jalna, alleging that prior to the date of incident, there were threats to the respondent No. 2, at the hands of one Revu

Gopinath Pawar i.e. the accused No. 1, on account of using the cart-way to his field. On 14.09.2025, at about 7.30 p.m., when he with his brothers Ananda and Sandeep were proceeding from their field and visited near Dhakephal Tanda-1, at that time, the accused Revu Gopinath Pawar, Prakash Gopinath Pawar, Vishwanath Revu Pawar, Sandeep Vishwanath Pawar, Madan Laxman Pawar, Ganesh Premchand Pawar, Vijay Pandit Pawar (Appellant in Cri. A. 735/2025) , Prakash Sitaram Pawar, Prakash Sitaram Pawar, Navnath Madan Pawar (Appellant No. 1 in Cri. A. 753/2025), Raju Uttam Pawar (Appellant No. 2 in Criminal Appeal No. 753 of 2025), Vishwanath @ Visnu s/o Tarasingh Pawar (Appellant no.3 in Criminal Appeal No. 753 of 2025) and Vishwanath Revu Pawar, assaulted him with stick on his head. The accused Revu Pawar, Sandeep Vishwanath Pawar, Revu Gopinath Pawar, Madan Laxman Pawar, Navnath Madan Pawar (the accused No. 1 in Criminal Appeal No. 753 of 2025) slapped him. The accused Prakash Gopinath Pawar tied his hands and legs. Thereafter, accused Prakash Sitaram Pawar and Prakash Gopinath Pawar threw/inserted Chilli powder in his eyes and anus. When his throat got dry and he was asking for water, at that time the accused Prakash Gopinath Pawar urinated in his mouth (i.e. Informant). Accused Sandeep Vishwanath Pawar also urinated in the mouth of his brother Sandeep Pawar and accused Vishwanath Revu Pawar urinated on the face/mouth of Ananda Sitaram Yede. The accused Ganesh Pawar put pistol near ear of his brother Anand and assaulted with nunchaku on his head. So also, his younger

brother was assaulted by the accused. These accused persons abused him on his caste by saying that, “धेडग्या, महा—या, मांग्या तुम्ही खुप माजलात”, as to why the bullock cart is taken from their field.

4. On the basis of said report, Crime No. 490 of 2025 registered against the appellant and others with Ghansawangi, Police Station, District Jalna, for the offence punishable under Sections 115(2), 118(1), 189(2), 190, 191(2), 351(2) and 352 of the Indian Penal Code 1860 (for short “IPC”, Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 3 r/w 35 of the Arms Act against the accused persons.

5. The appellants/accused submitted their applications bearing No. 427 of 2025 (Navnath and Ors Vs. State of Maharashtra) and 428 of 2025 (Vijay Pawar and Ors Vs. State of Maharashtra) before the Special Judge, Ambad and prayed for anticipatory bail in said crime.

6. On 29.09.2025, the learned Additional Sessions Judge/Special Judge, Ambad passed impugned order and declined to grant anticipatory bail, after considering the facts and circumstances of the case, as well as abusement to the informant/respondent No. 2, on his caste and urinating in mouth and on face of the informant as well as his brother, hence, their custodial interrogation is required and if the appellants accused are released on anticipatory bail they will pressurize

the informant and the prosecution witnesses.

7. The learned counsel appearing for the appellants in both these appeals canvassed that, the appellants/accused are falsely implicated in the crime. So also, as per the contents of the First Information Report (for short "the FIR"), nothing has been attributed against the present appellants about abusement to the informant on his caste. Therefore, prima-facie the ingredients of Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act, are not constituted, therefore, no bar is created as per Section 18 of the Atrocities Act, to enlarge the appellants/accused on anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, hence, prayed for releasing the appellants/accused on anticipatory bail.

8. The learned counsel appearing for the appellants further canvassed that, in both these appeals on 04.10.2025 and 08.10.2025, this Court passed the order and granted ad-interim anticipatory bail to the appellants/accused and during the pendency of the present appeals, the appellants/accused in both these appeals have co-operated with the investigating officer, however, charge-sheet is yet to be filed. The investigation is on the verge of completion, therefore, the custody of the present appellants/accused is not required. However, the learned Special Court failed to consider the nature of offence and no such incident has occurred in public view, hence, no bar is created u/s 438 of Cr. P. C., to

enlarge the appellants/accused in Crime No. 490 of 2015, registered with Ghanasawangi Police Station.

9. Per-Contra, the learned APP appearing for the respondents-State canvassed that, the Respondent no. 2 and his brothers victim are members of Scheduled Caste. As per contents of the First Information Report, the incident of abuse to respondent No.2, his brothers, in castiest slur occurred in public place at the hands of all the accused persons. The accused Prakash Gopinath Pawar tied hands and legs of the informant. Thereafter, accused Prakash Sitaram Pawar and Prakash Gopinath Pawar inserted Chilli powder in eyes and anus of the informant, due to which throat of the Informant got dried and he was asking for water, at that time the accused Prakash Gopinath Pawar urinated in mouth of Informant/Respondent no. 2. Accused Sandeep Vishwanath Pawar also urinated in the mouth of his brother Sandeep Pawar. The accused Vishwanath Revu Pawar urinated on the face/mouth of Ananda Sitaram Yede. The accused Ganesh Pawar put pistol near ear of his brother Anand and assaulted with nunchaku on head. So also, his younger brother was assaulted by the accused. These accused persons abused him on his caste by saying that, “धेडग्या, महा—या, मांग्या तुम्ही खुप माजलात”, as to why the bullock cart is taken from their field. Therefore, appellants in both appeals as well as their associates committed heinous crime in public place and within the public view. The learned Special considered the nature of offence as well

heinous, serious nature of crime and declined to release the accused, which is justifiable.

10. During the course of argument, the learned APP produced the investigation papers/notes before this Court. On perusal of the said papers it appears that, the investigating officer recorded statements of three injured eye witnesses, namely Anand Sitaram Yede, Sandeep Sitaram Yede and informant Vilas Sitaram Yede. As per contents of the spot panchanama, the incident appears to have occurred on main road of Thanegaon to Partur, near Dhakephal Tanda No.-1, which is the public place and within the public view.

11. The statements of other witnesses Dada Kale and Kailas Raut supports occurrence of such heinous incident in the public place and within the public view. On the face of record it appears that, all the accused persons were having good knowledge and they are acquainted with the caste of the respondent No. 2/informant.

12. As per the seizure panchanama, the clothes of some accused were seized u/s 27 of Evidence Act after their arrest. As per the injury certificate, the injured Vilas Yede sustained five injuries on his left scapular right temper of left thumb and also found particles of red chilly powder in his eyes. Another injured Ananda Sandeep Pawar, sustained five injuries, on his head, left and right knee and back and particles of

red chilly powder were found in his eyes. Another victim Sandeep Yede sustained blunt trauma on his right side of scapula.

13. Therefore, considering the contents of the FIR, Spot panchanama as well as statement of witnesses u/s 180 of B.N.S.S. 2023, it appears that, the present appellants/accused, who were present at the spot and assaulted the victim including prosecution witnesses with the weapon like iron rod. The hands and legs of the Respondent no. 2/ Informant was tied. So also, the appellants/accused abused the Respondent no. 2/ Informant on his caste by saying that, “धेडग्या, महा—या, मांग्या तुम्ही खुप माजलात”. Therefore, to my conscious view, provisions of Sec. 3 of the Prevention of SC ST (Atrocities) Act, 1989 is made out.

14. In the case of **Kiran Vs. Rajkumar Jivraj Jain and Another – 2025 SCC Online SC 1886** the Hon’ble Supreme Court considered the following cases:

(i) Vilas Pandurang Pawar-V-State of Maharashtra,(2012) 8 SCC 795;

ii) Prathvi Raj Chavan-Vs- Union of India, (2020) 4 SCC 727,

iii) Shajan Skaria-Vs- State of Kerla, 2024 SCC OnLine SC 2249,

(iv) State of M.P. Ram Krishna Balothia & Anr., (1995) 3 SCC 221,

(v) Kartar Singh-Vs-State of Punjab, (1994) 3 SCC 569,

(vi) Hitesh Verma-Vs- State of Uttarakhand (2020) 10 SCC 710;

(vii) Ramesh Chandra Vaish-Vs- State of U. P., (2023) SCC OnLine SC 668

(viii) Karuppudayar-Vs- State Rep., by the Dy. Supdt. Of Police, Lalguid Trichy & ors., 2025 SCC OnLine SC 2015 and observed in paragraph Nos. 6 to 9 as under :

“6. The learned counsel appearing for the appellants further canvassed that, Shri Gautam Bhalerao had lodged a report on 14.09.2022 against the present appellant no.1 and another accused reserve alleging about abusement on his caste. However, after conclusion of the trial, the Special Court passed the judgment and order on 30.01.2024, and acquitted the present appellant no.1/accused and others for the offence punishable under Section 504 and 34 of the Indian Penal Code and under Sections 3(1)(x), 3(1)(v), 3(1)(iv) of the Atrocities Act. However, again respondent no.3, who is not concerned with the said plot lodged a false report in question, though the appellants were not present at the spot of incident as alleged by respondent no.3 and on the basis of said false report the Crime No.718 of 2025 was registered against the present appellants/accused.

7. It is further canvassed that, on 22.11.2025 the present appellant no.1- Shaikh Anis Shaikh Ibrahim lodged First Information Report alleging that, on 22.11.2025, at about 2.00 a.m., he observed CCTV footage on his mobile phone about visit of one Dharmapriya Bhalerao, Buddhpriya Bhalerao and Atul Sarode alongwith five to six other persons in an auto rickshaw in front of his Hotel and when he visited there, the accused persons issued life threats to him. So also,

the accused cut lock of shutter and illegally entered in his hotel and took away Rs.1,800/- from his hotel. However, on 22.11.2025, the 7 937 cri appeal 934.25 reserve respondent no. 3/informant lodged First Information Report No. 718 of 2025 (for short "the FIR"), which is a counter blast FIR to the FIR bearing No.715 of 2025 lodged by him. Therefore, the learned Counsel appearing for the appellants/accused canvassed that the incident which has been narrated in the FIR No. 718 of 2025 is false and the accused persons never abused the respondent no.3/ informant on his caste and no such incident occurred, therefore, the appellants are entitled for anticipatory bail.

8. It is further canvassed that the appellant no.3 is a married lady having sucking child. The appellant nos.1 and 2 are respectable persons in the society. The appellants are ready and willing to co- operate with the Investigating Officer and nothing remained to be seized from these appellants. Further, the incident narrated in FIR No.718 of 2025 has not occurred within the public view, therefore, Section 18 of the Atrocities Act does not create bar under Section 438 of the Code of Criminal Procedure to enlarge the appellants/accused on anticipatory bail.

9. In support of these submissions, the learned counsel placed reliance on the case of Hitesh Warma Vs. The State of 8 937 cri appeal 934.25 reserve Uttarakhand, AIR 2020 SC 5584, wherein, the Hon'ble Supreme Court held as under :

"15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore,

the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per respondent No.2 herself. Due to dispute, appellant and others were not permitting respondent No.2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act. reserve unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe,

17. In another judgment reported as Khuman Singh v. State of Madhya Pradesh this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

"6 2019 SCC On Line SC 1104 : (AIR 2019 SC 4030) "15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a

member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar"-Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out".

15. In the case in hand, on perusal of FIR and investigation papers it *prima facie* appears that, the incident of castiest slur to the Respondent no. 2/ Informant and other victims on part of the appellants/accused has occurred at the public place and within public view. Not only, this but the Accused persons urinated on mouth, face of the Respondent no. 2/Informant and his brother. Therefore, to my view, offence under Sections 3(1)(r), 3(1)(s), 3(ii)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 115 to 118, 189 (2), 190, 191(2), 351(2), 352 of the Bhartiya Nyaya Sanhita, 2023 and under Section 3 r/w 25 of the Arms Act, appears to have been

prima facie made out. Hence, custodial interrogation of these appellants is certainly required. Therefore, considering the law laid down in **Keshaw Mahto @ Keshaw Kumar Mahto v. State of Bihar & Anr. (SLP (Crl.) No. 12144/2025**, decided on January 12, 2026 by the Hon'ble Supreme Court and as well as ratio laid down in **Kiran vs. Rajkumar** (supra), Section 18 of the Atrocities Act, bar is created under Section 438 of the Code of Criminal Procedure to enlarge the appellants/accused on anticipatory bail.

16. In view of the above discussion, the present appeals are liable to be dismissed, hence I proceed to pass following order :

ORDER

(i) The Criminal Appeal Nos. 735 of 2025 and 753 of 2025 are hereby dismissed.

(ii) The interim orders granted on 04.10.2025 and 08.10.2025, are hereby stand vacated.

(iii) The appellants/accused shall surrender before the investigating officer, within a period of two weeks from today.

(Y.G. KHOBRAGADE, J.)