



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 871 OF 2025

1. Tanaji S/o Sangram Tidke
Age: 48 years, Occu. Agri.,
2. Niwartee S/o Dnyanoba Kendre
Age: 25 years, Occu. Agri.,
3. Mahesh S/o Nivrutti Jaybhaye
Age: 20 years, Occu. Agri.,
4. Mahesh S/o Ramchandra @ Babu Kendre
Age: 24 years, Occu. Agri.,
5. Krushna S/o Shivram Kagne
Age: 25 years, Occu. Agri.,
6. Rajiv s/o Pramod Jaybhaye
Age: 22 years, Occu. Agri.,
7. Dipak S/o Tanaji Tidke
Age: 22 years, Occu. Education,
8. Dnyaneshwar S/o Balaji Tidke
Age: 26 years, Occu. Education,
9. Kartik@Shyam S/o Nivrutti Jaybhaye
Age: 48 years, Occu. Education,
10. Parmeshwar@Satwaji S/o Dhondiram Tidke
Age: 18 years, Occu. Education,
11. Vishnu S/o Tanaji Tidke
Age: 24 years, Occu. Education,
All residents of Village Savri,
Tq. Kinwat, Dist. Nanded, Maharashtra.

.... APPELLANTS

V/s.

1. The State of Maharashtra,
Through Police Station Kinwat,
Dist. Nanded.
2. Rajratna S/o Vishnu Wathore,
Age: 23 years, Occu. Education,
R/o Savri, Tq. Kinwat,
Dist. Nanded

.... RESPONDENTS

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Advocate for the Appellants : Mr. Bharat N. Gadegaonkar
APP for Respondent / State : Mr. R.D. Raut
Advocate for the Respondent No.2 : Mr. Ravindra Wankhede (Appointed)

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CORAM : Y.G. KHOBRADE, JJ.
RESERVED ON : 04.02.2026
PRONOUNCED ON : 10.02.2026

ORDER :-

1. Heard Mr. Gadegaonkar, the learned counsel appearing for the appellants, Mr. Raut the learned APP for the respondent/state and Mr. Wankhede, the learned counsel appearing for the respondent no.2/informant.

2. During the course of arguments, when this Court expressed its disinclination to grant relief to the extent of appellant no.1, the learned counsel appearing for the appellants, on instructions, sought leave to withdraw the appeal to the extent of appellant no.1-Tanaji Sangram Tidke. Accordingly, appeal is dismissed as withdrawn in respect of appellant no.1.

3. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the appellants/accused take exception to the order dated 11.11.2025 passed below Exh.1 by the learned Additional Sessions Judge-1 and Special Judge, Nanded, in Criminal Bail Application Nos. 897 of 2025 and 898 of 2025, thereby declining to grant anticipatory bail to the appellants/accused in connection with Crime No.289 of 2025 registered with Kinwat Police Station, District Nanded, for the offence punishable under Section 115(2), 190, 189(2), 351(2), 296 of the Bharatiya Nyaya Sanhita 2023, as well as under Sections 3 (1)(r), 3 (1)(s), and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. On the face of record, it appears that on 08.10.2025, the informant/respondent no.2 lodged the FIR with Kinwat Police Station alleging that, on 28.09.2025 at about 10.00 p.m., when the informant/respondent no.2 along with his friends, was watching Dandiya near Hanuman Temple at village Savri, at that time the appellant no.1-Tanaji Sangram Tidke abused him by uttering caste/slurs by saying that 'why he was watching ladies while playing Dandiya'. He also

assaulted him with kicks and fist blows and threatened him. Thereafter, when respondent no.2 was on the way to his home at about 11.30 p.m., all the appellants/accused again abused him on caste/slur and issued life threats. On the basis of said report, Crime No.289 of 2025 was registered with Kinwat Police Station, District Nanded, for the offence punishable under Sections 115(2), 190, 189(2), 351(2) and 296 of the Bharatiya Nyaya Sanhita 2023, and under Sections 3 (1)(r), 3 (1)(s) and 3(2)(va) of the SC-ST Act.

5. The learned counsel appearing for the appellants/accused canvassed that, on 09.10.2025 one Sopan Raghunath Jaybhaye lodged a complaint against the respondent No.2 and other three persons alleging that on 28.09.2025 when he was at his house at that time he heard shouts of ladies thereafter he went there and saw that the accused persons therein were abusing one Renukabai and upon enquiry she told him that, when the girls and women were playing Dandiya the accused persons were harassing and teasing them by throwing stones. When she asked them as to why they are teasing the girls and women they started abusing her. So also, the accused persons in the said incident snatched golden chain and due to intervention of others all the accused persons of said incident fled away from the spot. Therefore, on 29.09.2025 the complainant-Sopan

Raghunath Jaybhaye lodged a complaint/report against the respondent no.2 and others with Kinwat Police Station, on the basis of which Crime No.290/2025 was registered for the offence punishable under Sections 119(1), 115(2), 296, 351(2), 3(5) of the Bharatiya Nyaya Sanhita 2023.

6. It has been further canvassed on behalf of the appellants that to counter the FIR No.290/2025 lodged against the present respondent no.2 and others, the respondent no.2 lodged the FIR No.289/2025 on 08.10.2025 the FIR in question. So also, as per the contents of the FIR, there are no allegation that the appellant nos.2 to 11 abused the respondent no.2 on his caste. The allegation that appellant nos.2 to 11 abused the respondent no. 2 on caste in chorus appear to be unrealistic. Therefore, the provisions of Section 18 of the SC-ST Act does not create bar to enlarge the appellants/accused on anticipatory bail under Section 438 of Cr.P.C. To buttress these submissions, the learned counsel appearing for the appellants placed reliance on **Pratik and Ors. V/s. The State of Maharashtra and Ors.; 2020 (3) BomCR (Cri.) 238**, wherein it has been observed that, as per the contents of FIR all seven accused persons stated to have abused the informant in chorus which is unrealistic. Abuses or utterances cannot be in chorus as two men or women do not think alike at the same time. What is going on in the mind of another person cannot be

revealed and, therefore, especially the abuses cannot be in chorus, under these circumstances the accused persons were released on anticipatory bail.

7. Per contra, the learned APP and the learned counsel appearing for the respondent no.2 supported the findings recorded by the trial Court while passing the impugned order. According to the learned APP and the learned counsel appearing for the respondent no.2, the informant/respondent no.2 is a member of SC community. The appellants/accused are residing in the same village. The accused persons are having knowledge that the respondent no.2/informant is a member of SC community and with an intention to insult and humiliate him in public view i.e. at the place of Dandiya near Hanuman Temple at village Savri, all the accused persons abused the respondent no.2 on his caste. Therefore, as per the provisions of Section 18 of the SC-ST Act bar is created under Section 438 of the Cr.P.C. to enlarge the appellants/accused on anticipatory bail. Hence, prayed for dismissal of the appeal.

8. Needless to say that, as per the contents of the FIR on 28.09.2025 at about 10.00 p.m., the respondent no.2/informant visited near Hanuman Temple and were watching Dandiya along with his friends Sandeep Sanjay Jatwe and Prakash Milind Raut. As per contents of the FIR, it further shows that the appellant no.1-Tanaji Sangram Tidke told the

respondent no.2 that, the girls and ladies of his community are playing Dandiya and as to why he is watching them and abused him on his caste by saying ‘ महाराच्या तु इकडे का आला, तुला अधिकार नाही इकडे यायचा ’. When the respondent no.2 asked as to what he did, the appellant no.1 responded by saying that, ‘ तुम्हा महार आहात तुमची मंदीराकडे येण्याची लायकी नाही, तुम्ही तुमच्या बाबासाहेबा सोबतमायघालुन ग्या. तुमची लायकी नाही समाजामध्ये येण्याची व दांडीया बघण्याची ’. Thereafter, at about 11.30 p.m., when he was on his way to home at that time all the accused persons despite knowing that the respondent no.2 belongs to SC community all of them intentionally abused him by saying that, ‘ तुम्ही गळ्यात मडके घालुन फिरत होते, तुमची आमच्या बरोबर राहण्याची लायकी नाही. तुम्ही तुमच्या ओकातीत राहा ’ slapped and assaulted him with kicks and fist blows.

9. Therefore, it *prima facie* appears that, the respondent no.2/informant alleged to have abused in the above castiest words in chorus at about 11.30 p.m.. The appellant no.1 also abused the respondent no.2 on his caste in public place within the public view at about 10.00 pm. However, abusement to the respondent no.2/informant at the hands of appellant nos. 2 to 11 in chorus appears to be unrealistic and as observed by this Court in the case of **Pratik** cited (supra).

10. In *Prathvi Raj Chauhan Vs. Union of India and Ors; (2020) 4 SCC 727*, wherein it has been held that if the complaint does not make out a *prima facie* case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

11. In the case of *Karuppudayar V/s. State represented by the Deputy Superintendent of Police and Ors.; AIR 2025 SC 705*, the Hon'ble Supreme Court observed in para 10 as under:

10. The term “any place within public view” initially came up for consideration before this Court in the case of *Swaran Singh and others v. State through Standing Counsel and another*. This Court in the case of *Hitesh Verma v. State of Uttarakhand and another* referred to *Swaran Singh*(supra) and reiterated the legal position as under:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a

building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under :

28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

(emphasis in original)”

12. In the case of **Kiran V/s. Rajkumar J. Jain; AIR 2025 SC 4083**, wherein it has been held that Section 18 expressly excludes the applicability of Section 438 of the Cr.PC., if the incident has occurred within public view. In other words, in relation to any case involving arrest of a person who is facing the accusation about committing offence under this Act, protection of Section 438 Cr.PC. would not be available. The

legislature has taken away the benefit of anticipatory bail in respect of the arrest for the offences alleged under the SC/ST Act. The bar in Section 18 of the SC/ST Act would operate.

13. In case in hand, on perusal of record it further appears that, on 09.10.2025 one Sopan Raghunath Jaybhaye lodged a FIR NO.290/2025 against the respondent no.2 and other two accused in respect of abusing Renukabai and snatching a gold chain. However, on 08.10.2025 prior to lodging the FIR No. 290/2025, the respondent no.2/informant lodged the FIR No.289/2025 in question. Therefore, it cannot be presumed that FIR bearing no.289/2025 dated 09.10.2025 lodged by the respondent no.2 for the incident occurred on 28.09.2025 is an afterthought or counter to the FIR No.290/2025 lodged on 09.10.2025.

14. No doubt, the Investigating Officer recorded statements of witnesses- Sandeep Kerba Kamble and Sandeep Sanjay Jathve. On perusal of statements of both these witnesses, it show that the appellant nos.2 to 11 abused the respondent no.2/informant in chorus which does not seem to be probable. No doubt, the prosecution produced the medical certificate which shows that, the respondent no.2/informant suffered blunt trauma and abrasion injuries which appear to be fresh and simple in nature. As per the spot panchanama, the incident has occurred on cement road near

Hanuman Temple. The said place appears to be a public place and within the public view. However, considering the abusement on caste in chorus to the respondent no.2/informant and as the contents of FIR also indicate that the respondent no.2/informant was abused on caste only by the appellant no.1. Therefore, I find that there is no *prima facie* case made out as against the appellant nos.2 to 11. Therefore, taking into consideration the law laid down in cases of **Prathvi Raj Chauhan and Kiran** *cited (supra)* as well as the facts and circumstances of the present case, I am of the view that, no bar is created under Section 18 of the SC-ST Act to enlarge the appellant nos.2 to 11 on anticipatory bail during the pendency of trial of Crime No. 289/2025.

15. In view of above, I proceed to pass the following order:

ORDER:

- i) The appeal is dismissed as withdrawn as against appellant no.1- Tanaji Sangram Tidke and the ad-interim bail granted by this Court on 19.11.2025 is hereby cancelled to his extent.
- ii) The appellant no.1 shall surrender before the concerned Investigating Officer within a period of two weeks from today.
- iii) The anticipatory bail granted by this Court on 19.11.2025 to appellant Nos.2 to 11 i.e. Niwartee Dnyanoba Kendre, Mahesh Navrutti

Jaybhaye, Mahesh Ramchandra @ Babu Kendre, Krushna Shivram Kagne, Rajiv Pramod Jaybhaye, Dipak Tanaji Tidke, Dnyaneshwar Balaji Tidke, Kartik@Shyam Nivrutti Jaybhaye, Parmeshwar@Satwaji Dhondiram Tidke and Vishnu S/o Tanaji Tidke is hereby extended till the conclusion of the trial on the same terms and conditions except attending the concerned Police Station as the charge-sheet is filed.

- iv) The appellant nos.2 to 11 shall not contact and/or influence the witness/es and or/ tamper with evidence in any manner whatsoever.
- v) The fees of the appointed counsel be quantified as per rules and it be paid by the High Court Legal Services Authority.
- vi) Accordingly, the Criminal Appeal is disposed of.

[Y.G. KHOBRADE, J.]