



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 887 OF 2025

1. Nilesh Ram Salunke,
Age: 34 years, Occ. Agri & Business
2. Parwati w/o Ram Salunke,
Age: 53 years, Occ. Household,
3. Pooja w/o Nilesh Salunke,
Age: 29 years, Occ. Household

All R/o Behind Old Bus Depot,
Shivratna Chowk, Dharashiv,
Tq. & Dist. Dharashiv.

.... APPELLANTS

V/s.

1. The State of Maharashtra,
Through Superintendent of Police,
Dharashiv, Tq. & Dist. Dharashiv.
2. The Police Inspector,
Dharashiv Police Station,
Tq. & Dist. Dharashiv.
3. Bibhishan s/o Maruti Londhe,
Age: 36 years, Occu. Driver,
R/o Near Sathe Chowk, Dharashiv,
Tq. & Dist. Dharashiv

.... RESPONDENTS

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Advocate for the Appellants : Mr. K.G. Gaikwad
APP for Respondent / State : Mr. V.M. Chate
Advocate for the Respondent No.3 : Mr. S.J. Salunke
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CORAM : Y.G. KHOBRAGADE, JJ.
RESERVED ON : 19.01.2026
PRONOUNCED ON : 22.01.2026

ORDER :-

1. Heard Mr. Gaikwad the learned counsel appearing for the appellants, Mr. Chate the learned APP for the respondent/state and Mr. Salunke the learned counsel appearing for the respondent no.3/informant.

2. This is an 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 take exception to the order dated 18.11.2025 passed by the learned Additional Sessions Judge, Dharashiv in Criminal Bail Application No.482/2025 and prayed for anticipatory bail in connection with Crime No.512/2025 registered on 05.11.2025 with Dharashiv City Police Station, District Dharasiv for the offence punishable under Section 118 (1), 351(2), 352, 3(5) of the BNS Act and under Section 3 (1)(r), 3 (1)(s), 3(2)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On face of record it appears that, on 05.11.2025 at about 00.26 hours, the respondent no.3/informant lodged an FIR alleging that on 02.11.2025 at about 4.00 pm, when he along with his brother visited the house of present appellant no.1/accused and asked him, as to why he posted derogatory and inflammatory post on facebook with respect to his

mother and wife at that time, the appellant no.1/accused- Nilesh Salunke abused the appellant on his caste and said that “Mangtya” do you have the status and capacity to contest the election and if such lower caste person contests the election then what will happen to our existence.” The Appellant No. 1 further said that for election purpose you can send your mother and wife to sleep with anybody or else call me to your house for having physical relationship with your wife then I will also help you in the election. Thereafter, the accused persons assaulted him with wooden log. So also, his brother was assaulted on his head but he somehow managed to dodge it but in the process he sustained injuries on his head and ear. Further, the appellant no.2-Parwatibai thrashed utensils on him. Similarly, the appellant no.3-Pooja brought wooden log from her house and gave it to maternal uncle of appellant no.1. The maternal uncle of the appellant no.1 also abused the accused and his brother on their caste. So also, both the accused person issued life threats to them. On the basis of said report, Crime No.512/2025 came to be registered against the appellants/accused for the offence punishable under Section 118 (1), 351(2), 352, 3(5) of the BNS Act and under Section 3 (1)(r), 3 (1)(s), 3(2)(u) of the SC-ST Act.

4. The learned counsel appearing for the appellants canvassed that the informant/respondent no.3 described that the incident occurred on

02.11.2025 at about 4.00 pm, however, prior to that the appellant no.2- Parwatibai w/o Ram Salunke, the mother of appellant no.1 and mother-in-law of appellant no.3 lodged an FIR No.510/2025 for the offence punishable under Section 118(1), 119(1), 189(2), 190, 191(2), 191(3), 324(4), 333, 334(1), 351(2), 352 of the BNS Act, on 04.11.2025 at about 1.06 hours against the present respondent no.3 (informant), in FIR No.512/2025 on account of assault at the hands of the respondent no.2 with iron road and wooden log. Due to the assault at the hands of respondent no.2, the appellant no.1 was hospitalized in Govt. Medical College and Hospital, Dharashiv on 02.11.2025 and at about 3.55 pm the appellant no.1 was taking treatment. Therefore, the story narrated by the respondent no.3 in FIR No.512/2025 is concocted and false.

5. It is further canvassed that, during the pendency of present appeal on 29.12.2025 the Investigating Officer filed the charge-sheet bearing no.189/2025 and nothing has remained to be siezed from the appellants/accused. So also, the FIR in question lodged on 05.11.2025 by the respondent no.2 is an afterthought. It is further submitted that on 24.11.2025, this Court passed an order and enlarged the appellants/accused on anticipatory bail, however, the prosecution has not brought anything on record to show that the present appellants/accused

have misused their liberty. On the contrary, the appellants/accused cooperated the Investigating Officer during the course of investigation. It is further canvassed that as per the contents of the FIR, there is no abusement at the hands of the appellants on caste to the informant and as per the narration given in the FIR, the incident took place within the four corner of the house of victim/respondent no.2. The learned counsel appearing for the appellants invited my attention to the spot panchanama, wherein, the incident allegedly occurred on road in front of the house of accused persons. Therefore, there is material discrepancies in FIR as well as in the spot panchanama.

6. The learned counsel appearing for the appellants further canvassed that the respondent no.3 has not alleged anything about abusement on his caste at the hands of the appellant nos.2 and 3. It is further canvassed that to show that the appellant no.1 was hospitalized and medical documents produced during the course of arguments show that at the relevant time the appellant no.1 was admitted in the Govt. Hospital. Therefore, the provisions of Section 18 of the SC-ST Act does not bar the provisions of Section 438 of Cr.P.C. for enlarging the appellants/accused on anticipatory bail.

7. In support of these submissions, the learned counsel appearing for the appellants placed reliance on the case of **Karuppudayar V/s. State represented by the Deputy Superintendent of Police and Ors.;** AIR 2025 SC 705, wherein 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)”

8. Per contra, the learned counsel appearing for the respondent no.3/informant supported the findings recorded by the learned trial Court on 18.11.2025 while rejecting the application for anticipatory bail. The learned counsel appearing for the respondent no.3 further canvassed that, as per the FIR, the incident of abusement on caste, filthy language and assault to the respondent no.3/informant occurred on road in front of house of the accused persons in public view. Further, the appellant no.3/Pooja had brought wooden log from her house and instigated the

maternal uncle of the appellant no.2 to assault the informant. Since the appellants/accused abused the informant/respondent no.3 on his caste in public view i.e. on road in front of the house of the accused persons, therefore, as per the provisions of Section 18 of the SC-ST Act, the bar under Section 438 is created and the appellants are not to be released on anticipatory bail.

9. In support of these submissions, the learned counsel appearing for the respondent no.3 placed reliance on 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.P.C., 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.

10. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. It is not in dispute that, on 04.11.2025 at about 1.06 hours, the present appellant no.2/Parwatibai lodged the FIR No.510/2025 alleging that on 02.11.2025 at about 3.30 pm

when she, her husband and son Nilesh (present appellant no.1), daughter in law- Pooja (present appellant no.3) were present at their house and when she was sweeping the courtyard at that time all of a sudden one Vilas Londhe, his brother and other 10 – 15 persons pushed her and barged into their house with wooden log and iron rod. Thereafter, they assaulted the appellant no.1-Nilesh due to which her son sustained injuries.

11. It further appears that on 05.11.2025 at about 00.26 hours the informant/respondent no.3 lodged an FIR alleging that, on 02.11.2025 at about 4.00 pm when he visited the house of respondent no.1 to inquire as to why he posted derogatory and inflammatory post on facebook with respect to his mother and wife at that time, the appellant no.1/accused-Nilesh Salunke abused on his caste by saying that, “mangtya do you have the status and capacity to contest the election and if such lower caste person contests the election then what will happen to our existence” and further said that for election purpose you can send your mother and wife to sleep with anybody or else call me to your house for having physical relationship with your wife and for such favour I will also help you in the election. Thereafter, the accused persons assaulted him with wooden log. Therefore, the offence punishable under Section 118 (1), 351(2), 352, 3(5)

of the BNS Act and under Section 3 (1)(r), 3 (1)(s), 3(2)(u) of the SC-ST Act.

12. Needless to say that, as per the contents of the FIR, the alleged incident of hurling abuses on caste appear to have occurred inside the house of the accused persons. The FIR does not disclose the place of occurrence of said incident either outside of the house or in front of the house. However, the spot panchanama drawn by the Investigating Officer shows that the incident of hurling abuses on caste and assault took place in front of road of the house of accused persons, which shows inconsistency.

13. No doubt, as per the law laid down in the case of **Karuppudayar** cited (supra), if the incident has occurred within the four corners of the house, the provisions of Section 3(1)(r) or Section 3(1)(s) would not be attracted. As per the ratio laid down in the case of **Kiran** cited (supra), if the abuses on caste to a member of SC-ST has occurred in front of the road in public view then the accused are not entitled for anticipatory bail as it creates bar under Section of the Act. In the case in hand, as discussed above, the FIR is silent about occurrence of the incident either on road or in front of the house of the accused persons. It is not in dispute that, during the pendency of present appeal, on 29.12.2025, the

Investigating Officer filed the charge-sheet bearing no.189/2025 and nothing remained to be siezed from the appellants/accused.

14. The learned trial Court passed the impugned order and declined to grant anticipatory bail considering the spot panchanama that the incident of abusing on caste occurred in front of the house of the accused persons on road which is a public place/public view within the meaning of Section 18 of the SC-ST Act, hence, it is not sustainable in the eyes of law.

15. Needless to say that, on 24.11.2025, this Court passed the order and enlarged the appellants/accused on anticipatory bail on furnishing bail bonds and solvent sureties. The prosecution has not brought any material to show that after the appellants/accused were enlarged on anticipatory bail they have misused their liberty. Therefore, considering the nature of offence as well as the counter FIR against each other, to my mind, it is a fit case to enlarge the appellants/accused on anticipatory bail and the interim order dated 24.11.2025 needs to be extended till the conclusion of the trial.

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

ORDER:

- i. The impugned order dated 18.11.2025 passed by the learned Additional Sessions Judge, Dharashiv in Criminal Bail Application No.485/2025 is hereby quashed and set aside.
- ii. The interim order granted by this Court on 24.11.2025 enlarging the appellants accused on anticipatory bail is hereby extended till the conclusion of the trial in Crime No.512/2025 registered on 05.11.2025 with Dharashiv City Police Station.
- iii. Accordingly, criminal appeal is disposed of.

[Y.G. KHOBRAGADE, J.]