



IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.929 OF 2025

Sunanda Mahindra Pawar

... **APPELLANT**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....
Mr. R.R. Awhad, Advocate holding for
Mr. N.L. Chaudhari, Advocate for appellant
Mr. S.S. Dande, A.P.P. for State
.....

CORAM : Y.G. KHOBRAGADE, J.

DATE : 7th APRIL, 2026

PER COURT :

1. Heard Mr. R.R. Awhad, learned counsel appearing for the appellant, Mr. Dande, learned A.P.P. for the prosecution and Ms Sangita Desarda, learned counsel appointed through Legal Aid, for respondent No.2.

2. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Atrocities Act' for the sake

of brevity), the appellant – informant takes exception to the order dated 15/9/2025, passed in Criminal Bail Application No.863/2025, by the learned Special Judge/ Additional Sessions Judge, Dhule, thereby released the respondent No.2 accused on anticipatory bail in connection with Crime No.159/2025, registered with Sakri Police Station on 4/7/2025 for the offence punishable under Sections 115(2), 351(2), 351(3), 352(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023 and Sections 3(1)(w)(ii), 3(1)(r) and 3(1)(s) of the Atrocities Act.

3. Learned counsel appearing for the appellant canvassed that, the appellant- informant lodged the F.I.R. with the respondent No.1 on 4/7/2025 and specifically alleged that, the appellant had given some portion of land to the respondent No.2 accused for running the hotel business. The period of tenancy agreement was over, but the respondent No.2 not vacated the premises. Therefore, on 14/5/2025 at about 11.30 a.m. to 12.45 p.m., the present appellant with her brother had visited the respondent No.2 at the hotel and had requested him to vacate the premises, but instead of vacating the premises, the respondent No.2 caught hold her hand and pushed her away. However, other persons Kishor Shripat More, Shripat Shankar More and Sitaram Daryagir Chavan

intervened and separated the respondent No.2 accused. Thereafter the present appellant- accused slapped the appellant-informant and also abused in her caste though the respondent No.2 was knowing her caste. Therefore, the learned counsel for the appellant canvassed that, the said incident occurred in the public view, therefore, as per the ratio laid down in case of **Kiran Vs. Rajkumar, 2025 SCC OnLine 1886**, under Section 18 of the Atrocities Act, bar is created to enlarge the respondent No.2 accused on anticipatory bail under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (Section 438 of the Criminal Procedure Code. However, the learned Trial Court passed the impugned order on 15/9/2025 and enlarged the respondent No.2 accused on anticipatory bail. Therefore, the impugned order is illegal, bad in law and prayed for quashing and setting aside the same.

4. Per contra, Mr. S.S. Dande, learned A.P.P. canvassed that, the appellant- informant is the member of Scheduled Caste community and the incident of castiest slur at the hands of respondent No.2 to the informant appellant caused in the public place i.e. hotel run by the respondent No.2. Therefore, as per the provisions of Section 18 of the Atrocities Act, bar is created to

enlarge the respondent No.2 accused on anticipatory bail. Hence, submitted for passing of the appropriate order.

5. Ms. Sangita Desarda, learned appointed counsel for the respondent No.2 through the Legal Aid canvassed that, the respondent No.2 is innocent and has not committed any such crime at any time before. However, the appellant has lodged the F.I.R. No.159/2025 and falsely alleged that, on the day of the incident the respondent No.2 accused abused the informant- appellant in her caste. Further, there is delay of one month and 20 days while lodging the F.I.R. Further, the land bearing Gat Nos.427/2/1 and 427/2/2 are owned by the Government and not by the informant-appellant or her brother. So also, there is no need of custodial interrogation of the respondent No.2. Therefore, considering the contents of the F.I.R. as well as the law laid down in the case of Kiran Vs. Rajkumar (cited supra), the learned Trial Court has passed the impugned order and released the respondent No.2 accused on anticipatory bail by imposing certain terms and conditions. So also, during the pendency of the present appeal, the investigating officer conducted the investigation and filed the Charge Sheet. Therefore, prayed for dismissal of the appeal.

6. Needless to say that, in the case of Kiran Vs. Rajkumar

(cited supra), the Hon'ble Supreme Court has 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.P.C. 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 Atrocities Act. The bar under Section 18 of the Atrocities Act would operate.

7. Taking into consideration the law laid down by the Hon'ble Supreme Court, it is necessary to consider the contents of the F.I.R. As per the contents of the F.I.R., on 14/5/2025 at about 11.30 a.m. to 12.45 p.m., the appellant- informant with her brother Bhausahab Daji Wagh had visited at their field bearing Gat No.427/2/1 and asked the present respondent no.2 accused Sagar Shivaji Salunke for vacating the hotel premises which was given to him to run the hotel. No doubt, the respondent No.2 is aware about the caste of the present appellant- informant and the respondent No.2 allegedly abused the informant- appellant and her brother on their caste and abused them in filthy language as well as the life threats. However, the contents of F.I.R. appear that the said

incident has occurred in the hotel and the present appellant – accused caught hold hands of the appellant, and Kishor Shripat More, Shripat Shankar More and Sitaram Daryagir Chavan (Motiwale) had directed her brother to leave the premises.

8. No doubt, the incident had occurred on 14/5/2025, however, there is delay of one month and 20 days while lodging the F.I.R. The appellant – informant has not explained the said delay while lodging the F.I.R. On 15/5/2025, the learned Trial Court passed the impugned order considering the law laid down in Kiran Rajkumar (cited supra) as well as the unexplained delay on the part of the appellant- informant and enlarge the respondent No.2 on anticipatory bail, which appears to be just and proper and no interference is called to disturb the said order. Therefore, the present appeal is dismissed.

(Y.G. KHOBRAGADE, J.)

fmp/-