



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 953 OF 2025

Tirupati s/o Haridas Shinde
Age: 23 years, Occu: Service
R/o Guntur Tq. Kandhar Dist. Nanded ... **Appellant**
(Ori. accused No.3)

VERSUS

1. The State of Maharashtra
Through Police Station, Kandhar,
Dist. Nanded
2. Pradip s/o Uttam Sonkamble
Age 24 years, Occu: Driver
R/o Guntur Tq. Kandhar Dist. Nanded ... **Respondents**

....

Mr. Mayur B. Borse, Advocate for the Appellant
Mr. V. M. Chate, APP for Respondent No. 1 State
Mr. Abhinay Khot, Advocate for Respondent No.2

CORAM : Y. G. KHOBRAGADE, J.

DATE : 24th February, 2026

ORDER :-

1. Heard Mr. Mayur B. Borse, learned counsel for the Appellant, Mr. V. M. Chate, learned APP for Respondent No. 1 State and Mr. Abhinay Khot, learned counsel Respondent No.2- informant.
2. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act

read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the appellant/accused takes exception to the order dated 27.11.2025, passed by the learned Additional Sessions Judge, Kandhar, Dist. Nanded in Criminal Bail Application No. 192/2025, whereby declined to grant anticipatory bail to the present appellant accused in connection with Crime No.371/2025, registered with Kandhar Police Station, District Nanded on 11.11.2025, for the offence punishable under Sections 118(1), 115(2), 128(1), 189(2), 191(2) of the Bharatiya Nyaya Sanhita and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Having regard to submissions canvassed on behalf of the respective parties, I have gone through the contents of the FIR.

4. It is a matter of record that, on 11.11.2025, respondent No.2/informant lodged a report with Kandhar Police Station alleging that, by profession, he is Driver of Tractor and belongs to scheduled caste community. On 10.11.2025, at about 8:30 p.m., when the informant was sitting outside his house, the present appellant and his associates were proceeding on a tractor and drove nearby him in a high speed. At that time, he requested them to drive slowly as children were playing nearby. Upon this, the appellant/accused, Tirupati Shinde, got down from the tractor, caught hold of his collar, and assaulted him with kicks and fist

blows. On seeing this, his brother, father, cousin, and other relatives rushed to rescue him from the clutches of the accused persons. At that time, the present appellant/accused, along with Anand Shinde and Rameshwar, abused them in filthy language and used casteist slurs in connection with the flag-related dispute. On the basis of the said oral report, Crime No. 371/2025 came to be registered at Kandhar Police Station, District Nanded, on 11.11.2025.

5. After registration of crime, the appellant/accused approached the learned Additional Sessions Judge, Kandhar by filing Criminal Bail Application No. 192 of 2025 and other accused have filed Criminal Bail Application No. 191 of 2025 seeking anticipatory bail. On 27.11.2025, the learned Additional Sessions Judge, Kandhar passed the impugned order and rejected the Criminal Bail Application No.192 of 2025 filed by the present appellant/accused. However, Criminal Bail Application No. 191/2025 filed by other accused persons came to be allowed.

5. The learned counsel appearing for the appellant canvassed that alleged incident did not take place within public view and that there was no intention on part of the appellant to insult the informant in public.

5. Ms. Ashwini Ramdas Jagtap, SDPO, Kandhar, has filed an affidavit-in-reply and has strongly opposed the present application. The learned

APP canvassed that, as per the narration in the FIR, the incident occurred on 10.11.2025 at about 8:30 p.m. in front of the house of respondent No. 2/informant and appellant/accused abused respondent No. 2 by uttering castiest slur, therefore, the said incident took place within public view.

5. In support of his submissions, the learned APP has placed reliance on the case of ***Kiran Vs. Rajkumar Jivraj Jain and Ors, AIR 2025 SC 4083***, wherein, in paragraph No.6, the Hon'ble Supreme Court has observed thus:-

“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. The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2. Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could

advert to conduct a mini trial."

7. Needless to say that, on perusal of the FIR, it appears that the informant/respondent no.2 alleged that the present appellant accused, one Anand and Rameshwar abused him on caste saying that "झंड्याचे मॅटर झाल तेव्हा पासून तुम्ही म्हारग्यांनो आम्हाला डोक्यात खुपताय". It appears that Respondent no.2 alleged that present appellant accused, other accused Anand and Rameshwar only have abused him on caste, however, respondent no.2 has not disclosed that the appellant accused abuse him on caste within public view with intention to insult him.

2. In the case of ***Karuppudayar Vs. State Rep. By The Deputy Superintendent of Police & Ors, 2025(2) CGLJ 316***, the Hon'ble Supreme Court held that if the offence under the Atrocities Act occurred within the four-corner of the house, it do not *prima facie* constitute an offence either under Section 3(1)(r) or under Section 3(1)(s) of the SC/ST Act.

19. In the case of ***Kiran Vs. Rajkumar*** cited (supra), it has been held that Section 18 of the SC/ST Act 1989, exclude the applicability of Section 438 of Cr.P.C., it creates a bar against grant of anticipatory bail in absolute terms in relation to arrest of a person who faces specific accusation having committed the offence under the SC/ST Atrocities Act within the public view.

12. Therefore, considering the law laid down in the above cited cases, the appellant has made out a prima facie case for grant of anticipatory bail and it intention of the appellant does not appear about insulting the informant in the public to attract the provisions of Section 3 of the Act. Therefore, the impugned order needs to be quashed and set aside. On 09.12.2025, this Court passed the order and enlarged the appellant accused on interim anticipatory bail on certain conditions. Therefore it would be just and proper to confirm and extend the interim order till conclusion of the trial.

24. In view of above discussion, I proceed to pass the following order:-

ORDER

- (i) The appeal is partly allowed.
- (ii) The impugned order 27.11.2025, passed by the learned Additional Sessions Judge, Kandhar, Dist. Nanded in Criminal Bail Application No. 192/2025, is hereby quashed and set aside.
- (iii) Appellant is already released on ad-interim anticipatory bail vide order dated 09.12.2025 on execution of P.B. and S.B. of Rs.20,000/-. Therefore, the said interim protection is hereby extended during pendency of the trial on the same terms and conditions.
- (iv) It is made clear that if the appellant accused fail to appear

and cooperate for investigation, the Investigating Officer is at liberty to move this court for cancellation of bail.

- (v) Accordingly, the appeal is disposed off.
- (vi) The learned counsel Mr. Abhinay Khot was appointed for Respondent No.2 from legal aid, hence, his fees shall be quantified as per rule and be paid by the Legal Aid Sub Committee, High Court, Bench at Aurangabad.

[Y. G. KHOBRAGADE, J.]

JPChavan