



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 37 OF 2026

Kausalyabai W/o Bhujangrao Telang
Age:- 50 years, Occu: Household,
R/o. Vaibhav Nagar, HUDCO, Nanded ... APPELLANT

VERSUS

1. The State of Maharashtra
Through Itwara Police Station,
Nanded, Dist:- Nanded,
2. Ramdas S/o Rohidas Gajale,
Age:- 65 years, Occu:- Labour,
R/o. Gopalchawadi, Nanded,
Tq & Dist. Nanded ... RESPONDENTS
(Resp.No.2 Ori. Informant)

....
Mr. Vaibhav B. Dhage, Advocate for the Appellant
Mr. K. S. Patil, APP for Respondent No.1 – State
Mr. Arvind Gangadhar Jadhav and Ms Sanjivani B. Kadam,
Advocates for Respondent No.2
....

CORAM : Y. G. KHOBRAGADE, J.

RESERVED ON : February 23, 2026

PRONOUNCED ON : February 26, 2026

JUDGMENT :-

1. *Admit.*

2. Heard finally with the consent of the learned counsel appearing for the appellant, learned APP and the learned counsel appearing for respondent No.2.

3. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant/accused takes exception to the order dated 26.12.2025, passed in Criminal Bail Application No.1042 of 2025 by the learned Additional Sessions Judge-1/Special Judge, Nanded, thereby declined to enlarge the appellant/accused on anticipatory bail in connection with Crime No.357 of 2025, registered with Itwara Police Station, Nanded on 25.11.2025, for the offence punishable under Sections 108, 352, 351(3) of the Bharatiya Nyaya Sanhita, under Sections 3(1) (r), 3(2)(va), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

4. On the face of the record, it appears that on 25.11.2025, the informant/respondent No. 2 lodged an oral report with Itwara Police Station, Nanded, alleging that his son Deepak was working as a contract labourer with Krushi Udyog, Chandasingh Corner, Nanded, and to overcome financial crisis, his son had obtained a loan of

Rs.2,00,000/- (Rupees Two Lakh) from one Lakhan Thakur by mortgaging sale-deed of the plot approximately one and half years prior thereto. However, said Lakhan Thakur was lodged in jail in some other crime. The said mortgage period was to expire in the month of February 2025. At that time, he paid Rs.2,00,000/- to said Ranveer Thakur towards repayment of said loan and got sale-deed of the plot. After release from jail, Lakhan Thakur visited in front of the informant's house and abused on his caste by demanding an amount of Rs.3,00,000/- (Rupees Three Lakh) towards loan interest. The respondent No.2 / informant further alleged that, on 23.11.2025, at about 10.00 a.m., one villager Smt. Manebai gave a phone call to his son Deepak and demanded refund of loan amount. Prior to one year, his son Deepak borrowed loan amount of Rs.70,000/- on interest from the present appellant- Kausalyabai Telang but said loan was still not paid. Therefore, since past seven months, the appellant / accused was continuously visiting him and was also abusing on his caste. It is further alleged that the accused Lakhan Thakur, Manebai and the present appellant Kausalyabai Thakur, were having knowledge that the respondent No.2 and his son belong to Scheduled Caste and they were continuously harassing the complainant's son Deepak and also

abused him in public view on his caste because of non-refund of loan amount. So also, all the accused had issued life threat to his son on failure of repayment of loan. Hence, on 23.11.2025 at about 22.00 hours, his son Deepak committed suicide by plunging in Godavari riverbed. On the basis of said report, Crime No.357 of 2025 was registered with Itwara Police Station, Nanded for the offence punishable under Sections 108, 352, 351(3) of the Bharatiya Nyaya Sanhita, under Sections 3(1)(r), 3(2)(va), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. The appellant/accused filed Criminal Bail Application No.1042 of 2025 and prayed for anticipatory bail. However, on 26.12.2025, the learned Additional Sessions Judge-1, Nanded, passed the impugned order and declined to grant anticipatory bail to the present appellant / accused.

6. The learned counsel for the appellant has filed written notes of argument and also argued the matter for a considerable period. The learned counsel for the appellant canvassed that as per the contents of the F.I.R., there were loan transactions between the deceased Deepak and Shivshankar Bhujangrao Telang, the son of

present appellant and Smt. Mangalabai Ramdas Gajale, the mother of the deceased. The present appellant is not signatory to the said bond and she is involved in said alleged loan transaction. Further, the F.I.R. does not reveals any allegation against the present appellant about cheating, criminal breach of trust, extortion or forgery as against the present appellant/accused and no offence is registered for contravention of provisions of Bombay Money Lending Act. So also, the appellant is ready and willing to prodeuce the bond allegedly executed between Shivshankar Bhujangrao Telang, the appellant's son and Manglabai Ramdas Gajale, the deceased's mother before the Investigating Officer. Therefore, recovery of said Bond custodial interrogation of the appellant is not required.

7. In support of these submissions the learned counsel for the appellant placed reliance on the case of ***Vasant Kerba Shinde Vs. State of Maharashtra and another, (Criminal Appeal No.796 of 2021, decided on 09.08.2021)***, wherein the Hon'ble Supreme Court observed that, the documents are relied upon to submit that there were no money transactions between the present appellant and the complainant and that the transaction referred to in the F.I.R. was actually with Hari Kerba Shinde, who is no more. Therefore, the

learned counsel for the appellant submits that in the case in hand, the alleged unregistered bond was executed between the son of the appellant and mother of the deceased. Therefore, there were money transactions between the appellant and the deceased. The dispute was predominantly financial in nature and it does not disclose any grave criminal intent requiring custodial interrogation of the present appellant.

8. It further relied on the case of ***Keshav Reddy s/o Ramlu Yeltiwar & Ors. Vs. The State of Maharashtra & Anr., (2019) NearLaw (Bombay HC Aurangabad) Online 2723, Criminal Appeal No.1024 of 2019, decided on 03.12.2019***), wherein, this Court observed in paragraph Nos. 11, 12 and 13, as under:-

“11. Moreover, in order to attract the offence under Section 3(1) or 3(2) of the Act of 1989, it is essential to demonstrate that the appellants committed the present crimes under the Act of 1989, not being a members of Scheduled Caste or Scheduled Tribe. The opening sentence of Section 3(1) or Section 3(2) of the Act of 1989, itself shows, “whoever not being a member of Scheduled Caste or Scheduled Tribe”. It means that there must be prima facie affirmation or say in the FIR / complaint that the appellants-accused are not the member of Scheduled Caste or Scheduled Tribe. In the instant case, there are no whisper or averment in the FIR that appellants are not the members of Scheduled Castes or Scheduled Tribes or they are from higher caste. There is also no reference in the FIR that the appellants-accused were aware or they had an knowledge about the caste of first informant. These are the primary ingredients of offence

under Section 3(1) and 3(2) of the Act of 1989 for appreciation at this initial stage relating to grant of relief of pre-arrest bail under section 438 of Cr.P.C.

12. Taking into consideration all the circumstances discussed above, there is no impediment to conclude that in spite of bar under Section 18 of the Act of 1989, for invocation of powers under Section 438 of the Cr.P.C. it is still open to this Court to find out by looking to the recitals of FIR of the case itself, as to whether prima facie case is made out or not by the first informant against present appellants. As referred supra, the scrutiny of factual aspects reveals that there are no sufficient material available on record prima facie to arrive at the conclusion that the allegations nurtured on behalf of prosecution constitute the offence under the Act of 1989 against appellants. Therefore, there is no impediment to entertain the application filed under Section 438 of Cr.P.C. for relief of pre-arrest bail on behalf of appellants.

13. In regard to offences levelled against the appellants under Sections 323 and 506 read with Section 34 of the IPC, it is to be noted that the custodial interrogation of the appellants is not essential as well as there would not be any recovery from appellants for the sake of investigation. However, the appellants has shown inclination to co-operate with the Investigating Officer during the course of investigation. In such circumstances, it would justifiable to allow the bail application filed before learned trial Court on behalf of the appellants.”

9. The learned counsel for the appellant further relied on the case of ***Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, AIR 2020 SC 831***, wherein the Hon'ble Supreme Court laid down the guiding principles while dealing with the applications under Section 438 of Cr.P.C., as under:-

“(a) As held in Sibbia, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension (of

arrest), has to be based on concrete facts (and not vague or general allegations) relating to a specific offence or particular offences. Applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the court which considering the application, to extent and reasonableness of the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not a necessary condition that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.

(b) The court, before which an application under Section 438, is filed, depending on the seriousness of the threat (of arrest) as a measure of caution, may issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.

(c) Section 438 Cr. PC does not compel or oblige courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While weighing and considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified – and ought to impose conditions spelt out in Section 437 (3), Cr. PC [by virtue of Section 438 (2)]. The necessity to impose other restrictive conditions, would have to be weighed on a case by case basis, and depending upon the materials produced by the state or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

(d) Courts ought to be generally guided by the considerations such nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while assessing whether to grant anticipatory bail, or refusing it. Whether to grant or not is a matter of discretion; equally whether, and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.

(e) Anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial. Also orders of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

(f) Orders of anticipatory bail do not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail.

(g) The observations in Sibbia regarding “limited custody” or “deemed custody” to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of Section 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. Sibbia (supra) had observed that “if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in State of U.P. v Deoman Upadhyaya.”

(h) It is open to the police or the investigating agency to move the court concerned, which granted anticipatory bail, in the first instance, for a direction under Section 439 (2) to arrest the

accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc. The court – in this context is the court which grants anticipatory bail, in the first instance, according to prevailing authorities.

(i) The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the state or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances. (See Prakash Kadam & Etc. Etc vs Ramprasad Vishwanath Gupta & Anr⁵²; Jai Prakash Singh (supra) State through C.B.I. vs. Amarmani Tripathi⁵³). This does not amount to “cancellation” in terms of Section 439 (2), Cr. PC.

(j) The judgment in Mhetre (and other similar decisions) restrictive conditions cannot be imposed at all, at the time of granting anticipatory bail are hereby overruled. Likewise, the decision in Salauddin and subsequent decisions (including K.L. Verma, Nirmal Jeet Kaur) which state that such restrictive conditions, or terms limiting the grant of anticipatory bail, to a period of time are hereby overruled.

The Hon'ble Supreme Court further observed as under:-

“(8) The observations in Sibbia regarding “limited custody” or “deemed custody” to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of Section 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. Sibbia (supra) had observed that “if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in State of U.P v Deoman Upadhyaya.”

(9) It is open to the police or the investigating agency to move the court concerned, which grants anticipatory bail, for a direction under Section 439 (2) to arrest the accused, in the event of violation of any term, such as absconding, non cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.

(10) The court referred to in para (9) above is the court which grants anticipatory bail, in the first instance, according to prevailing authorities.”

10. Mr. Prashant Madanrao Shinde, the Sub-Divisional Police Officer, Sub-Division, Itwara, Nanded, has filed affidavit-in-reply and strongly opposed the appeal. The learned APP canvassed that the Investigating Officer conducted the investigation in connection with Crime No.357 of 2025 and drawn inquest panchanama on the dead body of Deepak and referred it for autopsy. The Investigating Officer drawn spot panchanama and recorded the statements of the witnesses, namely, Vaibhav Dnyanoba Waghmare, Mangalbai Ramdas Gajale, mother of the deceased. Dinkar Ramdas Gajale, brother of the deceased, Swapna Deepak Gajale, wife of the deceased etc.,under Section 161 of Cr.PC.. The statements of all the witnesses show that deceased Deepak was continuously harassed for refund of loan amount and he was also abused on caste and insulted in public at he hands of the present appellant/accused which due to which the deceased committed suicide. The learned APP further canvassed that

as per the recital of F.I.R., the present appellant / accused advanced loan of 70,000/- without necessary license under the Bombay Money Lending Act obtained the bond from the deceased for Rs.2,00,000/- (Rupees Two Lakh), therefore, custodial interrogation of the present appellant/accused is required for seizure of said bond. Further, the appellant/accused abused the deceased Deepak on his caste in public view, therefore, offence is registered under Sections 108, 352, 351(3) of the B.N.S. and under Sections 3(1)(r), 3(2)(va) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, hence, as per the provisions of Section 18 of the Act, bar is created for exercising power for grant of anticipatory bail under Section 438 of Cr.PC.. Hence, prayed for dismissal of the appeal.

11. The learned counsel for respondent No.2 submits that Crime No.357 of 2025 is registered against the present appellant / accused and others for the offence punishable under Sections 108, 352, 351(3) of the B.N.S. and under Sections 3(1)(r), 3(2)(va) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Therefore, as per the provisions of Section 18 of the Act, 1989, bar is created for grant of anticipatory bail under Section 438 of Cr.PC..

12. In support of his submissions, the learned counsel for respondent No.2 relied on the case of ***Kiran Vs. Rajkumar Jivraj Jain and Another, 2025 SCC OnLine SC 1886***, wherein the Hon'ble Supreme Court held that if the offence of abusement on caste has occurred within the public view, it constitutes an offence under Section 3 of the SC/ST Atrocities Act. Therefore, Section 18 of the Act, creates bar for enlarging the appellant / accused on anticipatory bail under Section 438 of Cr.P.C. Therefore, the present appellant is not entitled for anticipatory bail, hence prayed for dismissal of the appeal.

13. After hearing both the sides at length, I have gone through the record. In the case in hand, at the instance of respondent No.2, Crime No.357 of 2025 registered against the present appellant/ accused and others for the offences punishable under Sections 108, 352, 351(3) of the B.N.S. and under Sections 3(1)(r), 3(2)(va) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. On perusal of the F.I.R., it appears that, on 23.11.2025, at about 22.00 hours, Mr. Deepak Ramdas Gajale, the son of present respondent No.2 committed suicide by plunging from

bridge in Godavari riverbed. Respondent No.2 alleged that on 23.11.2025, at about 10.00 a.m., a phone call was received on mobile of his deceased son Deepak from one villager Smt. Manebai, who demanded refund of hand loan and issued life threat, if his son fail to repay said loan. The respondent No.2 further alleged that his son Deepak had obtained an amount of Rs.70,000/- on interest prior to one year from the present appellant / accused Kausalya Telang and the appellant had obtained bond of Rs.2,00,000/- in lieu of said loan. Since the loan amount was not repaid within time, since past seven months, the present appellant was continuously visiting at his house and was abusing him and his on their caste. Therefore, due to mental harassment and insult at the hands of the present appellant and other accused his son committed suicide.

14. Needless to say, the contents of the F.I.R. do not disclose the date on which the present appellant/accused allegedly visited the house of respondent No. 2/informant. The Respondent no.2 Informant has not specified exact word of casteist slur and specific abused words at the hands of the present appellant. Merely stating that the appellant/accused abused the informant on the basis of caste is not sufficient to attract the provisions of Section 3 of the Act, 1989.

15. In the case of ***Virendra Singh Vs. State of Rajasthan*** [2000 Cri. Law Journal 2899], the Full Bench of the Rajasthan High Court held that it must be borne in mind that if a person is even alleged to have committed an offence under the S.C./S.T. Act, 1989, the intention of Section 18 is clearly to debar him from seeking the remedy of anticipatory bail. It is only in circumstances where there is absolutely no material to infer why Section 3 has been applied to implicate a person for an offence under the Act of 1989 that the courts would be justified, within a very limited sphere, in examining whether the application can be rejected on the ground of its maintainability. It is further held that any other interpretation would go against the letter and spirit of the clear provision of Section 18 of the Act of 1989 which has already stood the test of reasonableness and constitutional validity up to the level of the Apex Court.

16. In the case of ***Ratnakala Martandrao Mohite Vs. The State of Maharashtra and anr., 2020 ALL MR (Cri) 334***, this Court held that the issue of applicability of Section 18 of the Act elaborately and held that the provisions of Section 18 as well as newly amended Section 18 of the Act of 1989 create a bar for exercising jurisdiction under

Section 438 of the Cr.P.C. However, it would not preclude the concerned Court from examination of allegations made in the F.I.R. on its face value to determine whether *prima facie* case is made out or not.

17. The main grievance of the prosecution is that if the appellant / accused is granted anticipatory bail, in that circumstance, it would amount to interference with the investigation and the bond as alleged by respondent No.2 while lodging the F.I.R. would remain unseized and the investigation may hamper. However, it is submitted that as per the law laid down in the case of ***Sushila Aggarwal and others***, cited (supra), “limited custody” or “deemed custody” to facilitate the requirement of the investigating authority, would be satisfied for the purpose of fulfilling the provisions of Section 27 of the Evidence Act, in that event, recovery of articles, disclosure of a fact, which is relatable to a statement made during such event, is deemed to be custody.

18. In the case in hand, the appellant /accused has filed written notes of argument and annexed xerox copy of agreement to sale of plot between Mangalbai Ramdas Gajale, the deceased’s mother and Shivshankar Bhujangrao Telang, the Appellant’s son. The

appellant further agreed to produce original Agreement To Sale dated 13.05.2025 before the Investigating Officer. Therefore, the custodial interrogation of the present appellant / accused is not required for recovery of the Bond u/s 27 of the Evidence Act.

19. Nonetheless, the contents of the F.I.R., does not satisfy the requirement to constitute an offence under Section 3 of the Act of 1989. Therefore, as per the ratio laid down in the case of ***Kiran Vs. Rajkumar Jivraj Jain and another***, cited (supra), I am of the view that, the present appellant / accused has made out a *prima facie* case to enlarge the appellant/accused on anticipatory bail during the pendency of trial in Crime No. 357 of 2025, registered with Itwara Police Station, Nanded. In view of above discussion, the impugned order dated 26.12.2025, passed by the learned Additional Sessions Judge-1, Nanded, in Criminal Bail Application No.1042 of 2025, needs to be quashed and set aside. Accordingly, I proceed to pass the following order:-

ORDER

- (i) The Criminal Appeal is allowed.
- (ii) In the event of arrest, the present appellant/accused Smt. Kausalyabai Bhujangrao Telang, be released on

anticipatory bail in connection with Crime No. 357 of 2026, registered with Itwara Police Station, District Nanded, for the offence punishable under Sections 108, 352, 351(3) of the Bharatiya Nyaya Sanhita, under Sections 3(1)(r), 3(2)(va), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on execution of P. R. bond of Rs.25,000/- with two solvent sureties of the like amount.

- (iii) The appellant/accused shall produce Original Bond executed on 13.05.2025 with the Investigating Officer as well as any other bond which have been executed between her and the deceased Deepak or his family members in connection with plot No.26 out of Gat No.35 of Sahyadri Sahakari Grunirman Sanstha Maryadit, Gopalchawdi, Taluka District Nanded and for the purpose of recovery of bond custody of the appellant shall be considered u/s 27 of the Evidence Act.
- (iv) The appellant shall not induce, threat or pressurize the prosecution witnesses.
- (v) The appellant shall not commit similar offence in future and cooperate the Investigating Officer.
- (vi) The appellant is directed to attend the concerned police station on every Monday between 9.00 a.m. and 11.00 a.m. till completion of investigation.

- (vii) The appellant is directed not to leave the territorial jurisdiction of Nanded Taluka, till completion of investigation, without prior permission.

[Y. G. KHOBRAGADE, J.]

SMS