



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

936 CRIMINAL APPEAL NO. 102 OF 2026

SOHEL NAZIR SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

....

Mr. Vishal R. Gadekar and Mr. R. S. Kazi, Advocates for the
Appellant

Mr. D. B. Bhange, APP for Respondent No.1

Mr. P. C. Bhagure and Mr. S. P. Bhagure, Advocate for Respondent
No.2

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CORAM : Y. G. KHOBRAGADE, J.

DATE : March 12, 2026

PER COURT :-

1. Heard the learned counsel appearing for the
appellant, the learned APP for respondent No.1 and the learned
counsel appearing for the respondent No.2 / informant.

2. By the present appeal under Section 14-A of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, the appellant takes exception to the order dated 12.01.2026,
passed by the learned Special Judge (Under SC & ST Act),
Aurangabad, below Exh.01 in Criminal Bail Application No.27 of

2026, thereby declined to grant anticipatory bail to the present appellant / accused in connection with Crime No.593 of 2025, registered with Phulambri Police Station, District Chhatrapati Sambhajanagar, on 15.12.2025, for the offence punishable under Sections 329(3), 351(2), 351(3) of B.N.S., under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The learned counsel appearing for the appellant submitted that, on 15.12.2025, respondent No. 2 / informant lodged a report alleging that, on 14.12.2025, at about 5:30 p.m., when the informant visited his agricultural field, he found cattle grazing in the standing crop of corn and wheat, and the present appellant/accused was standing beside his field. Therefore, the informant asked about the ownership of the said cattle, to which the appellant/accused replied that he is the owner of the said cattle. Thereafter, respondent No. 2 / informant asked the accused to remove his cattle from the field. However, the appellant/accused allegedly abused the informant by referring to his caste and also issued a threat to his life. Thereafter, upon hearing the noise and filthy language, neighbouring agriculturists, namely Shaikh Ahmed Shaikh Shanoor Patel, Imran

Ayyub Patel, and Dadarao Bhikan Tupe, came to the spot and pacified the quarrel. On the said report, Crime No.593 of 2025 is registered against the present appellant / accused with Phulambri Police Station, for the offence punishable under Sections 329(3), 351(2), 351(3) of B.N.S., under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The learned counsel for the appellant canvassed that, as per the contents of F.I.R., the incident has occurred in the private land of the informant / respondent No.2 and it was not in public view. So also, no person was present at the time of incident. Therefore, the said offence does not attract Section 3 of the SC / ST Atrocities Act. However, the learned Trial Court passed the impugned order considering the case of *Pritivi Raj Chauvan Vs. Union of India and others, AIR 2020 SC 1036*, wherein it is held that the bar under Sections 18 and 18A of the SC/ST (Prevention of Atrocities) Act is not applicable where the complaint does not disclose a *prima facie* case for the applicability of the provisions of the said Act.

5. It is further canvassed that the Investigating Officer has filed a reply and has categorically stated that investigation is

complete and that the charge-sheet has been filed. Therefore, nothing remains to be seized from the present appellant. Accordingly, the appellant has made out a prima facie case to enlarged him on anticipatory bail.

6. Per contra, the learned APP canvassed that as per the contents of F.I.R., the present appellant / accused abused the respondent No.2 / informant on his caste in the public view as the other witnesses, namely, Shaikh Ahmed Shaikh Shanoor Patel, Imran Ayyub Patel, and Dadarao Bhikan Tupe, observed the casteist slur at the hands of the present appellant / accused, hence, said incident was occurred within the public view. Therefore, Section 3(1)(r) and 3(1)(s) of the SC/ST Atrocities Act constitute the offence have, as per the provisions of Section 18 of the SC/ST Atrocities Act, the bar is created for enlarging the appellant / accused under Section 438 of Cr.P.C.

7. In support of these submissions, the learned APP and the learned counsel appearing for the respondent No.2 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.”

8. 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 does not *prima facie* constitute an offence either under Section 3(1)(r) or under Section 3(1)(s) of the SC/ST Act.

9. Having regard to the submissions canvassed on behalf of both the parties, I have gone through the records. It is not in dispute that on 15.12.2025, respondent No.2 / informant, lodged oral report with Phulambri Police station, alleging that on 14.12.2025, at about 5.30 p.m., when he visited at his field, he found presence of cattle and goats in his standing crops of corn and wheat and at that time he found presence of the appellant nearby his field, hence he asked about ownership of the said cattle. Thereafter, the present appellant / accused replied that he is the owner of the said cattle and then respondent No.2 / informant gave him understanding to take out his cattle from his field, but the appellant / accused abused him on his caste and while the appellant / accused was abusing him in filthy language, the neighbour agriculturists, namely, Shaikh Ahmed Shaikh Shanoor Patel, Imran Ayyub Patel, and Dadarao Bhikan Tupe, visited there and specified the quarrel. On the basis of said report, Crime No.593 of 2025 registered against the present appellant / accused for the offence punishable under Sections 329(3), 351(2),

351(3) of B.N.S., under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

10. The F.I.R. does not disclose that when the appellant / accused abused the respondent No.2 / informant on his caste at that time, these three witnesses were present, but it appears that the said witnesses visited at the spot when the appellant / accused was abusing in filthy language. Though the respondent No.2 / informant claimed that above three witnesses were present at the time of incident, hence the incident has occurred in the public view. Therefore, as per the law laid down in the case of **Kiran** cited (supra), the appellant / accused has made out *prima facie* case to enlarge him on anticipatory bail.

11. It further appears that the Investigating Officer /SDPO, Chhatrapati Sambhajinagar, has conducted the investigation and recorded the statements of the witnesses and filed the charge-sheet against the appellant / accused. Therefore, considering the nature of the said crime, no custodial interrogation of the present appellant / accused is required.

12. On 12.02.2026, this Court passed an order and granted ad-interim anticipatory bail to the appellant / accused in connection with Crime No. 593 of 2023, registered with Phulambri Police Station, on certain terms and conditions. Therefore, it will be just and proper to continue the said ad-interim anticipatory bail, till conclusion of the trial in Crime No.593 of 2025, on the same terms and conditions.

13. Accordingly, the appeal stands disposed off.

14. The appellant shall not issue any threat or tamper the prosecution witnesses.

[Y. G. KHOBRADE, J.]

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