



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 108 OF 2026

1. Dhondiba Kisan Binnar,
Age-60 years, Ococu-Agri,
2. Kishor Dhondiba Binnar,
Age-36 years, Occu-Agri,
3. Subhash Dhondiba Binnar
Age-55 years, Occu-Agri
4. Suman Dhondiba Binnar,
Age-55 years, Occu-Agri,

All R/o. Village Keli Rhumanwadi,
Tq. Akole, Dist. Ahilyanagar

...APPELLANTS

VERSUS

1. The State of Maharashtra,
Through the Investigating Officer,
Akole Police Station, Tq. Akole,
Dist. Ahilyanagar
2. Laxman Bhiva Thokal,
Age-70 years, Occu-Agri,
R/o. Village Keli Rhumanwadi,
Tq. Akole, Dist. Ahilyanagar

...RESPONDENTS

Mr. S. V. Dixit, Advocate for the Appellants
Mr. Shrinivas T. Solanke, Advocate for the Respondent No. 3
Mr. R. D. Raut, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 08th JUNE, 2026

PER COURT :

1. The Appellants/accused persons have filed this Appeal for the grant of bail in connection with Crime bearing No. 644/2025 dated 26-12-2025 registered at Akole Police Station, Dist. Ahilyanagar for the offenses punishable under Sections 115(2), 61(2), 324(4), 329(3), 352, 351(2), 3(5) of the Bhartiya Nyaya Sanhita [for short the “**BNS**”] and under Sections 3(1)(b), 3(1)(c), 3(1)(g), 3(1)(r), 3(1)(s), 3(1)(u), and 3(1)(z) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act [for short ‘***the Atrocities Act***’].

2. Heard the learned Advocate for the Appellants and learned Advocate for the Respondent No.2 and learned APP for the State at length and perused the Appeal memo, record and police papers produced by the learned APP.

3. At the outset, it appears that on 26-12-2025, the informant, Laxman, lodged the report against the Appellants, alleging that the Appellants are their neighbours. On 10-11-2025, at about 01.00 am, the accused persons, with a JCB, had removed the stones kept in an open space adjacent to the informant's house. At that time, the accused damaged the informant's house. They also abused him and his wife and manhandled them. They told him that “या ”कोळपाट्यांचा काटा कासा काढायचा आहे हे आम्हाला चांगलेच माहिती आहे” and threatened him to kill.

Therefore, he lodged the report with the police station. However, the police have not taken cognisance. Therefore, he has filed the Application before the learned Additional Sessions Judge. The learned Additional Sessions Judge vide order dated 20-12-2025 directed the Police Inspector to register the complaint as the FIR. Based on the said order, the crime was registered against the Appellants. Pursuant thereto, the Appellants moved an Application before the learned Additional Sessions Judge for the grant of pre-arrest bail, which was rejected on 29-01-2026. Being dissatisfied with the said order, the Appellants have preferred this Appeal.

4. At the outset, the learned Advocate for the Appellants contends that the Appellants have not committed any offence, but they have been falsely implicated in the present crime on account of a land dispute between them and the informant. There are no specific averments in the complaint that the informant was abused with a caste slur. The averments in the FIR do not attract the provisions of the Atrocities Act. Therefore, it does not appear that the accused committed the offence under the Atrocities Act. To buttress his submissions, he has relied upon the following judgments:

1. Hitesh Verma Vs State of Uttarakhand and another (2010) 10 SCC 710 (relevant para 13)
2. Shajan Skaria Vs State of Kerala and another 2024 SCC OnLine SC 2249. (relevant paras 13, 41, 48, 50, 51,

60 to 62, 74, 80 onwards.)

3. Keshaw Mahto @ Keshaw Kumar Mahto Vs State of Bihar and Anr in SLP (CRL) No.12144/2025. (relevant paras 12 and 13)

5. Learned Advocate for the Appellants pointed out the relevant paragraphs mentioned in the above judgments and submitted that, in view of the law laid down in the said judgments, bare perusal of the averments in the FIR does not constitute the offence under the Atrocities Act. He further submitted that an offence under Section 3(1) (r) *cannot stand merely on the fact that the informant/complainant is a member of the SC or ST unless the insult or intimidation is with an intention to humiliate such a member of the community.* Averment in the FIR prima facie does not disclose the same. Therefore, he submitted that Section 18 of the Atrocities Act would not apply to the present crime while considering the Appeal for the grant of bail. Hence, he urged that the Appeal be allowed.

6. On the other hand, the learned Advocate for the Respondent No. 2 strenuously opposed the Appeal on the ground that the Appellants abused the informant who belongs to the 'Koli' caste and by uttering the words 'कोळपाट्या' and thereby the Appellants humiliated the informant with a caste slur. He also submitted that, although the learned Additional Sessions Judge directed the Police Inspector to treat the complaint as an FIR, the Police Inspector did not

do so and instead recorded an independent complaint.

7. Similarly, the learned APP vehemently opposed the Appeal and submitted that a bare perusal of the spot panchanama reveals that the incident occurred within public view. Similarly, he relied on the statements of the witnesses Raju and Chandrabhaga and submitted that these witnesses have supported the informant, which clearly indicates that the accused persons abused the informant with a caste slur. Therefore, they both resisted the Appeal and urged for dismissal of the Appeal.

8. On perusal of the FIR, prima facie, it does not appear that which Appellant uttered the word ‘कोढपाट्या’. But the averment in the FIR appears to be vague and omnibus. Because the informant or the witnesses have not made specific allegations that one of the Appellants abused them, but have made vague allegations that all the accused persons uttered the said word. According to the investigation, the police examined Namdeo, Madhukar and Amol as independent witnesses. They nowhere stated that at the time of the incident, the accused persons abused the informant with a caste slur. But their statement appears to be inconsistent with the informant and the alleged two witnesses, which prima facie creates a doubt about the utterance of those words by the Appellants. Witness Shantabai is the

informant's daughter, and Raju, the informant's son, was in the school. They are family members of the informant and not independent witnesses. Therefore, I do not find substance in the learned APP's contention that Shantabai and Raju are independent witnesses and support the prosecution's case. Thus, it cannot be inferred that the incident occurred within the public view.

9. Apart from that, a bare perusal of the FIR and statement of the witnesses prima facie does not appear to indicate that the accused persons uttered the word 'कोळपाट्या' with an intention to insult or humiliate the informant to attract the provision of the Atrocities Act.

10. I would like to reproduce paragraphs 48, 50, 60, 61, 80, and 82 of the Shahnaz as under:

48. As a sequitur, if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons.

50. The duty to determine the prima facie existence of the case is cast upon the courts with a view to ensuring that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR, in fact, discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the

complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a prima facie finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual.

60. Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989, was to provide stringent provisions for the punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.

80. At the cost of repetition, the words in Section 3(1)(r) of the Act, 1989 are altogether different. Mere knowledge of the fact that the victim is a member of the Scheduled Caste or the Scheduled Tribe is not sufficient to attract Section 3(1)(r) of the Act, 1989. As discussed earlier, the offence must have been committed against the person on the ground or for the reason that such person is a member of the Scheduled Caste or the Scheduled Tribe. When we are considering whether prima facie materials exist, warranting arrest of the appellant, there is nothing to indicate that the allegations/statements alleged to have been made by the appellant were for the reason that the complainant is a member of a Scheduled Caste.

82. A penal statute must receive strict construction. A

principle of statutory interpretation embodies the policy of the law, which is, in turn, based on public policy. The court presumes, unless the contrary intention appears, that the legislator intended to conform to this legal policy. A principle of statutory interpretation can, therefore, be described as a principle of legal policy formulated as a guide to the legislative intention.

11. Learned APP as well as the learned Advocate for the Respondent do not dispute that, except for the offence under the Atrocities Act, other offences are bailable ones.

12. Thus, considering the above discussion as well as the law laid down in the above-cited judgments, in my view, the averments in the FIR prima facie do not disclose that the accused persons abused the informant with a caste slur to attract the provision under the Atrocities Act. Therefore, in my view, the question of bar under Section 18 of the Atrocities Act would not attract.

13. In light of the above discussion, I am of the opinion that the Appellants are entitled to bail in the event of their arrest.

14. Consequently, ***the Appeal is allowed as prayed in prayer clauses A & B.***

15. In the event of arrest of the Appellants in connection with the Crime bearing No. 644/2025 dated 26-12-2025 registered at Akole Police Station, Dist. Ahilyanagar for the offenses punishable under Sections 115(2), 61(2), 324(4), 329(3), 352, 351(2), 3(5) of the **BNS**

and under Sections 3(1)(b), 3(1)(c), 3(1)(g), 3(1)(r), 3(1)(s), 3(1)(u), 3(1)(z) of the *Atrocities Act* they be released on furnishing on furnishing PB and SB of Rs.50,000/- [Rupees Fifty Thousand only] each with one or two solvent sureties in the like amount, on the following terms and conditions:

- i] The Appellants shall attend the concerned police station on 17-06-2026 between 11.00 am and 01.00 pm and thereafter as and when called by the Investigating Officer till filing of the charge-sheet.
- ii] The Appellants shall not tamper with the prosecution evidence in any manner till the conclusion of the trial.
- iii] The Appellants shall not leave India without prior permission of the court till the conclusion of the trial.
- iv] The Appellants shall furnish their contact details and residential addresses to the I. O./Police Station and the concerned Court, and shall keep the information updated, in case of any change.

[ABHAY J. MANTRI, J.]