



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

935 CRIMINAL APPEAL NO. 142 OF 2026

**ASHWIN GOVARDHAN BARGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

.....
Advocate for Appellant : Mr. Pawar Amol Ajay
APP for Respondents/State : Mr. S.S. Dande
Advocate for the Resp. No.3 : Ms. Varsha M. Shelke Kolpe (Appointed)
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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 09.04.2026**

PC.:-

1. Heard Mr. Pawar the learned counsel appearing for the appellant, Mr. Dande the learned APP for the respondent no.2 and Advocate Ms. Varsha Shelke appointed through the legal aid for the respondent no.3.
2. By the present appeal under Section 14-A of the 2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant / accused takes exception to the order dated 12.02.2026, passed by the learned Special Judge (Atro), Rahata in Criminal Bail Application No.23 of 2026, thereby declined to enlarge the appellant / accused on anticipatory bail in connection with Crime No.15 of 2026, registered with Rahata Police Station on 12.01.2026, for the offence punishable under Sections 118(1), 115(2),

352, 351(2), 3(5) of the B.N.S. and under Section 3, 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. On perusal of the F.I.R. dated 12.01.2026, it appears that on 11.01.2026, at about 8.30 p.m., the present appellant / accused with his associates Sagar Kale, Kartik Barge, Govardhan Barge, visited at Dr. Annabhau Sathe square and abused the informant and his blood relatives in filthy language and on their caste. The said abusement on the caste appears to be in chorus and with their common intention, assaulted the respondent No.2 / informant and others.

4. The learned counsel for the appellant submits that accused No.3 i.e. Kartik Barge is already released on regular bail and accused No.4 Govardhan Barge is released on anticipatory bail by the learned trial Court.

5. As per the contents of the FIR the castiest slur at the hands of the accused appears to have been given in chorus only by calling them on their caste. However, the FIR does not show it was within the public view. No doubt, it has been alleged that the accused persons assaulted the informant/respondent no.3 and his associates with wooden log. Therefore, considering the law laid down in the case of **Pratik and Ors. V/s. The State of Maharashtra and Ors.; 2020 (3) Bom CR (Cri.) 238**, wherein, it has been

observed that, as per the contents of FIR all seven accused persons stated to have abused the informant in chorus which is unrealistic. Abuses or utterances cannot be in chorus as two men or women do not think alike at the same time. What is going on in the mind of another person cannot be revealed and, therefore, especially the abuses cannot be in chorus, under these circumstances the accused persons were released on anticipatory bail.

6. In *Prathvi Raj Chauhan Vs. Union of India and Ors; (2020) 4 SCC 727*, wherein it has been held that if the complaint does not make out a *prima facie* case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

7. In the case of **Karuppudayar V/s. State represented by the Deputy Superintendent of Police and Ors.; AIR 2025 SC 705**, the Hon'ble Supreme Court observed in para 10 as under:

10. The term “any place within public view” initially came up for consideration before this Court in the case of Swaran Singh and others v. State through Standing Counsel and another. This Court in the case of Hitesh Verma v. State of Uttarakhand and another referred to Swaran Singh(supra) and reiterated the legal position as under:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any

place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”]. The Court held as under :

28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

(emphasis in original)”

8. In the case of **Kiran V/s. Rajkumar J. Jain; AIR 2025 SC 4083**, wherein it has been 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.PC. 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 SC/ST Act. The bar in Section 18 of the SC/ST Act would operate.

9. Therefore, considering the contents of the FIR as well as the law laid down by the Hon'ble Supreme Court in above cited cases (supra), I am of the view that the appellant/accused is entitled for the anticipatory bail.

10. On 25.02.2026, this Court passed an order and enlarged the appellant/accused on ad interim anticipatory bail on certain terms and conditions. Therefore, it would be just and proper to continue the said order during the pendency of trial of Crime No. 15/2026 registered with Rahata Police Station on 12.01.2026.

11. Accordingly, impugned order dated 12.02.2026 passed in Criminal B.A. No. 23/2026 passed by the Special Judge (Atro.), Rahata is hereby quashed and set aside.

12. Criminal Appeal is disposed of accordingly.
13. The fees of the appointed counsel be quantified as per rules and be paid through the High Court Legal Services Authority.

[Y.G. KHOBRAGADE, J.]