



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 152 OF 2026

Prakash Shankar Hiwale

...Appellant

Versus

The State of Maharashtra and Another

...Respondents

Mr. Kakde Vishal Sanjay, Advocate for the Appellant.

Mr. S. N. Morampalle, APP for Respondent – State.

Mr. Nitin S. Ingle, Advocate for Respondent No.2.

CORAM: ABHAY J. MANTRI, J.

DATE : JUNE 10, 2026

PER COURT :

1. The Appellant–Informant, being aggrieved by the order dated 05th February 2026 passed by the learned Additional Sessions Judge-2, Jalna, in Cri. Bail No. 64 of 2026, whereby granted pre-arrest bail to Respondent No.2 in connection with Crime No.09 of 2026, registered with Tembhurni Police Station, for the offences punishable under Sections 333, 119(1), 115(2), 352, 351(2) and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (for short, “**BNS**”) and under Sections 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short, “**Atrocity Act**”), has preferred this Appeal.

2. Heard learned counsel for the Appellant, Respondent No.2, and the learned APP for the Respondent–State.

3. Perused the FIR, copy of the charge-sheet, Affidavit-in-Reply filed by the APP and the record, as well as the judgment of the Hon'ble Supreme Court in *Karuppudayar Vs. State represented by the Deputy Superintendent of Police, Lalgudi Trichy and Others*¹

4. The thrust of the arguments of the learned counsel for the Appellant is that the learned Sessions Court has erred in granting pre-arrest bail to Respondent No.2 by ignoring the bar under Section 18 of the Atrocity Act. He has also relied upon the judgment of the Hon'ble Supreme Court in *Kiran Vs. Rajkumar Jivraj Jain and Another*², pointed out paragraph No.5.3.1 and submitted that, in view of the law laid down by the Hon'ble Supreme Court, the remedy of pre-arrest bail in connection with the offences under the Atrocity Act is not available to the applicant; therefore, granting pre-arrest bail by the learned Trial Court was erroneous. He further submitted that the finding recorded by the learned Trial Court that the offence had not taken place within the public view is erroneous. Therefore, he urged the cancellation of bail.

5. On the other hand, learned counsel for Respondent No.2, as well as the learned APP, submitted that, during the course of investigation, the Investigating Officer deleted Section 119(1) of the BNS and Section 3(2)(v) of the Atrocity Act.

1 2025 Supreme (SC) 251; 2025 INSC 132

2 2025 SCC OnLine SC 1886

6. Learned counsel for Respondent No.2 further vehemently contended that the incident took place within the four corners of the wall; therefore, the learned Trial Court has rightly held that it cannot be said that the incident has taken place at a place within the public view and, therefore, no interference is required in the impugned order.

7. A bare perusal of the FIR reveals that the incident had taken place within the four corners of the wall, where only family members were present, and no other members of the public were present. Therefore, as per the law laid down by the Hon'ble Supreme Court in ***Karuppudayar*** (supra), it cannot be said that the offence has taken place at a place within the public view.

8. The learned Additional Sessions Judge, in paragraph No.8 of the order, has categorically observed that the FIR does not disclose that the act committed was within the public view and, therefore, the question of applicability of the bar under Section 18 of the Atrocity Act does not arise.

9. Perused paragraph No.5.3.1 of ***Kiran*** (supra). However, the facts of said case and the present case are distinct; therefore, in my view, the observations made in paragraph No.5.3.1 do not apply to the present case. On the other hand, the law laid down by the Hon'ble Supreme Court in ***Karuppudayar*** (supra) applies to the case in hand.

10. Thus, considering the above discussion and the law laid down by the Hon'ble Supreme Court in *Karuppudayar* (supra), in my view, the Appellant has failed to make out a case for cancellation of the bail granted by the learned Trial Court.

11. Consequently, the Appeal, being bereft of merits, stands dismissed.
No order as to costs.

(ABHAY J. MANTRI, J.)