

Navnath Waghmare (P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 489 OF 2025

Deepak Kantilal SharmaAppellant
Versus
The State of Maharashtra and Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 490 OF 2025

Nikki @ Nikita Deepak Sharma Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 491 OF 2025

Nisha Deepak Sharma Appellant
Versus
The State of Maharashtra & Anr. Respondents

WITH

CRIMINAL APPEAL NO. 492 OF 2025

Swarnima Deepak SharmaAppellant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Prabhanjay Dave with Ms. Bharti Bhogesara for the
Appellant.

Mr. Ashok S. Gawai APP for the State - Respondent

Mr. Rahul Pandey with Ms. Suchita Pandey for Respondent
No.2.

Mr. Siddhartha Dhumal, API, Malvani Police Station present in
Court.

	CORAM:	R. M. JOSHI, J.
	RESERVED ON	20 th February, 2026
<u>PC:-</u>	<u>PRONOUNCED ON</u>	<u>27th February, 2026</u>

1. These Appeals filed under Section 14-A of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 take exception to the orders dated 27th March, 2025 passed in Anticipatory Bail Application Nos. 346/2025, 347/2025, 348/2025 and 349/2025 whereby the Application for pre-arrest bail filed by the Appellants in connection with Crime No. 38 of 2025 registered with Malvani Police Station for the offence punishable under Sections 504, 506 r/w 34 of the Indian Penal Code and Section 3 (1)(r), 3(1)(s) and Section 3(2)(v)(a) of the Atrocities Act., came to be rejected by Special Court.

2. On 08th January, 2025, a report came to be lodged by the first informant stating that he has friendship with Ravi Arora for last 15 years and they are also business partners. He states about Ravi Arora getting married with

Swarnima (one of the Appellant) in the year 2019. He claims that after the marriage, there used to occur quarrels between the husband and wife. The informant further states about occurrence of the incidents from January, 2020 to January, 2021, in which is is said to have been abused and insulted over his caste. Amongst other contentions, according to the informant, in March, 2020, they went to hotel “ The 101 Corner”, wherein Swarnima insulted her in presence of the staff as well as the ice cream vendor. It is stated that in September, 2020 also she throw water used for clensing purpose on him and also abused him. An incident is also narrated which is said to have occurred in Orbit Mall in November, 2020, wherein the sister and the mother of Swarnima have abused and insulted the Informant over his caste. Finally it is stated that the father of Swarnima abused him over his caste in the court premises on 28th January, 2021.

3. On the basis of this report, the Appellants arrest and filed pre-arrest bail applications before the Special Court. By

the impugned orders, the Special Court rejected those applications and hence these Appeals.

4. Since these Appeals involved same question of facts and law, by consent of both sides, they are heard and decided together.

5. Learned counsel for the Appellants submits that this is a clear cut case of false implication of the Appellants with *mala-fide* intention to counter blast the proceedings filed by Swarnima against her husband Ravi Arora. It is submitted that the report came to be lodged in January, 2025, in respect of the incidents allegedly occurred in March, 2020 till 27th January, 2021. It is his submission that there is no probable explanation for not lodging the report about the incident immediately. According to him, since the proceedings under the D.V. Act are filed by Swarnima against her husband Ravi Arora, the present complaint came to be lodged by way of counter blast at his instance. It is thus submitted that the fact that the informant does not remain present before the Court

but the husband of Swarnima attends the hearing of the present Appeals. This according to him indicates that the report is false and is lodged at the instant of the husband of Appellants – Swarnima. It is submitted that the incident alleged to have occurred during Covid -2019 period, are not possible to have been caused, as there were restrictions for the free movement of the people and that activities such as Mall etc. were not permitted by the Government. In any case, it is his submission that the offence has not been committed in public view since not witnessed by any independent witness and, as nothing is to be recovered at the instance of the Appellants, this is a fit case for confirmation of the interim relief granted to the Appellants.

6. Learned counsel for the Respondent No.2 submits that at this stage the correctness or otherwise of the allegations cannot be gone into. It is his submission that complaint in respect of incidents in question is filed in January, 2021 itself and hence, there is no delay in filing First Information Report. According to him, the FIR clearly indicates that the incidents

have occurred at the public place and thus in the public view. It is submitted that before lodging of the report, notices were issued to the Appellants and that merely on the ground that the offence is registered belatedly, which in fact is not so, the Appellants are not entitled for pre-arrest bail. It is submitted that in view of Section 18 of the Atrocities Act, there is embargo created for grant of anticipatory bail.

7. Learned APP also opposed the Appeals essentially on the ground that the incidents in question have occurred in public view. In this regard, the reference is made to the statements recorded during the course of investigation. There is also a grievance made that after obtaining the interim relief, the Appellants have not co-operated in the investigation. With regard to the contentions of the Appellants about the Mall being closed in November, 2020, relying upon the affidavit filed on record, it is submitted that during the said period, the Malls were allowed to function on these and among other days, he seeks rejection of the pre-arrest bail.

8. There cannot be any dispute made with regard to the proposition canvased by the learned counsel for the Respondent No.2/ Informant that in case *prima-facie* is made out against the Appellant under the provisions of Atrocities Act, bar created by Section 18 thereof would apply. It is therefore, necessary to see as to whether *prima-facie* offence under the Atrocities Act is made out in the instant case.

9. The material placed before this Court is considered on its face value in order to ascertain as to whether *prima-facie* offence is seen to have made out against the appellant attracting provisions of Atrocities Act.

10. Record indicates that on 14th January, 2021 a complaint was made by Informant against Appellant with Police Station making reference to the incidents occurred in February 2020, March 2020, November 2020 and January 2021, this complaint came to be lodged after Appellant – Swarnima lodged complaint against her husband Ravi Arora in near

Police Station and registered NC on 03rd November, 2020. Moreover the First Information Report came to be lodged on 08th January, 2025 after the Appellant – Swarnima filed divorce petition against her husband- Ravi Arora.

11. From the First Information Report it is clear that Informant is friend of Ravi. Though, a complaint was made in January, 2021 in respect of incident in question, in the F.I.R. there is no reference made about the said complaint lodged by the Informant. It is found on the basis of material on record that in 2021 after occurrence of the dispute between Appellant– Swarnima and her husband Ravi and after lodging of complaint against him, complaint sought to be lodged by Informant in January, 2021 similarly after lodging of the divorce petition so also on being made as a party to the proceeding under the Domestic Violence Act, 2005, present report came to be lodged on 08th January, 2025. In the light of these facts, it is specifically argued on behalf of the Appellant that the present report came to be lodged at the instance of the husband of Appellant and the Informant is not

pursuing the said proceeding. but, it being perused by her husband of the Appellant – Swarnima. It is pointed out that the husband of Appellant-Swarnima remains present in this Court at hearing and not the Informant himself. This contention has not been rebutted on behalf of the Informant, as there is no specific serial mode of the said allegation. Though, the said fact does not become a decessive factor however, would become an attending circumstance.

12. In the aforesaid facts though it cannot be said that there was no complaint made in respect of the incident in question prior to lodging of F.I.R, however, prima-facie perusal of said complaint and F.I.R. lodged indicates the variance in the version of informant in both.

13. This Court is required to see, *prima-facie* as to whether the offence in question has occurred in public view in order to attract provisions of Atrocities Act.

14. It is the case of the informant that in January, 2020 on occasion of birth of his daughter, he along with Ravi went to

see his wife-Gayatri at Surat, Appellant-Swarnima quarreled with Ravi on the same ground, in February, 2020 Appellant-Swarnima came to know about informant belonging to member of Scheduled Cast community reference is made with regard to talk between Appellant –Swarnima and Ravi, questioning as to why she was taken to his house. In this regard the statement made in the complaint dated 14th January, 2021 are inconsistent and the contrary to the F.I.R. Similarly, it is claimed that in March, 2020 Appellant – Swarnima came to the hotel “The 101 Corner” at about 8:30 PM and at that time applicant - swarnima throw the water on his face and abused him. He claims that the said incident is occurred in the presence of Hotel Staff and Ice-cream Vendor- (Anwarali Abbas Ali Shaikh). In this regard, in the complaint filed on 14th January, 2021 he states that appellant-swarnima insulted him and as he was so embarrassed to notice, if any, staff member had seen it or not. It is after 4 years he claims that the incident was witnessed by Vendor-Anwarali. The statement of Anwarali indicates that he had acquaintance

with the informant. If he is independent, it would be impossible that he would name all the persons present at spot. Moreover, his statement is recorded after 4 years of the occurrence of the incident and thus it becomes doubtful. Therefore, it cannot be said that he is an independent witness and in whose presence alleged incident has occurred.

15. In so far as incident of November, 2020 in respect of Sister and Mother of swarnima occurred in Orbit mall, Malad (west) Mumbai, there is discrepancy in respect of place at which the incident has occurred. In any case, no one else except for the Ravi has witnessed the said incident. Similar is case about allegation against the father of swarnima, abusing informant on his caste in respect of the incident occurred on 28th January, 2021 in the court, there is no witness much less independent witness.

16. Learned A.P.P has placed on record the investigation papers. Perusal of the investigation papers indicate recording of statement of no other statement except Ravi and Anwarali.

Thus it can be said the incident occurred in Orbit Mall as well as in the Court cannot be said to have occurred in public view, in view of judgment of the Hon'ble Supreme Court in the case of *Hitesh Varma Vs. State of Uttarakhand AIR 2020 SC 5584, AIR Online 2020 SC 812.*

17. Considering the facts on record on the basis of it indicate that the offence alleged against the appellant have not occurred in public view. Moreover, the F.I.R. is apparently lodged by way of counter blast to the proceedings filed by the appellant-swarnima against informant as well as Ravi under the Domestic Violence Act, so also the petition of divorce was filed against Ravi. The possibility of false implication of the Appellant is not ruled out.

18. On the basis of material on record it cannot be said that offence under the Atrocities Act is *prima-facie* made out in order to apply embargo created by Section 18 of the Act.

19. Liberty of the appellants is protected by this Court by order dated 24th June, 2025 and there is nothing on record to

show that the appellants have abuse the same. Moreover having regard to the nature of offence, custodial interrogation of the appellant is not necessary. Consequently, this Court finds no reason/ justification for not confirming interim relief.

20. Criminal Appeals therefore, stand allowed by confirming interim relief.

(R. M. JOSHI, J.)