

MPBalekar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 951 OF 2025

Sahil Ramesh Sonavane,
Age: 25 years, Occ.:- Job,
R/o B/501, Biroba Darshan Building,
Mhatre Compound, Mangaon,
Dombivli east, Thane.

... Appellant

V/s.

1. State of Maharashtra,
Through the Manapada Police Station.

2. Jay Sunil Palkari,
Age :- 26 years,
R/o Palkari Niwas, Kalyan Shil Road,
Near Vitthal Mandir, Sonarpada, Dombivali (E),
Manpada, Dist. Thane.

...Respondents

Mr. A.S. Ingle (through V.C.) a/w Dayavant K. Gaikwad for
the Appellant.

Mr. H.J. Dedhia, APP, for the State - Respondent .

CORAM : R. M. JOSHI, J.

RESERVED ON : FEBRUARY 17, 2026

PRONOUNCED ON : FEBRUARY 27, 2026

JUDGMENT:

1. The issue in the present case arises out of an Order granting ad-interim bail by the Learned Special Judge, Kalyan without issuing the prior notice to the Victim and without hearing the Victim of an offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act"). There is no dispute about the fact that during pendency of present appeal,

Anticipatory Bail Application filed by appellant came to be rejected by Special Court and consequently the appeal filed against ad-interim relief granted therein has become infructuous. However, Appellant insists for passing order on the issue raised by him. Thus, the issue remains before this Court that “whether the Special Court can grant ad-interim relief without issuance of notice to the Victim u/s 15A(3) and also without hearing the victim u/s 15A(5) of the Atrocities Act.”

2. The Ld. Counsel for the Appellants submits that it is a well settled law that the Anticipatory Bail under Atrocities Act can be granted only when the *prima facie* case is not made out. In order to arrive at such conclusion, victim needs to be heard as per the requirements of Section 15A(5). He further submits that when the interim relief is to be granted pursuant to the bail application, it is seen whether the *prima facie* case is made out or not, hence at interim stage also, the victim is needed to be heard. While relying on the statutory provisions, he submits that Section 15A(5) mandates that the victim should be heard at every proceeding including bail proceedings and the interim relief in bail application is a part of bail proceedings. Therefore, he submits that the interim order granting ad-interim bail cannot be excluded from the bail proceedings and it is mandatory to hear the victim at interim stage as well.

3. Ld. Counsel for Appellants to support his contentions relied on the following judgments :

- i. ***Hariram Bhambi Vs. Satyanarayan***, AIROnline 2021 SC 980
- ii. ***Kishor Shivdas Shinde Vs. State of Maharashtra***, 2023 SCC OnLine Bom 1514
- iii. ***State of M.P Vs. Ram Krishna Balotia***, AIR 1995 SC 1198

- iv. *Sudip Mondal Vs. State of West Bengal*, 2023 SCC OnLine Cal 3780
- v. *Jeewanlal (1929) Ltd. Vs. Appellate Authority under the Payment of Gratuity Act and Ors.*, AIR 1984 SUPREME COURT 1842
- vi. *Samadhan Vitthal Guthule vs. The State of Maharashtra and Ors.*, 2025 : BHC-AS:6646
- vii. *Pramod Kumar Ray and ors. Vs State of Odisha* – 2017 CRI. L. J. 3068
- viii. *Asharfi vs. State of Uttar Pradesh*, 2018 CRI. L. J. 937
- ix. *Meta Sewak Upadhyay and Anr. Vs State of U.P. and Anr.* – AWC-1995-3-2031
- x. *Ramakant Vasant Kamble Vs State of Maharashtra*, 2018 SCC OnLine Bom 6738
- xi. *Jai Sing vs. Union of India*, AIR 1993 RAJASTHAN 177
- xii. *Union Of India Vs state of Maharashtra and Ors.*, AIR 2019 SUPREME COURT 4917

4. He relied on a few judgments to support his contention that victim is needed to be furnished with timely and proper notice and moreover to be heard before deciding the bail application and even at the stage of granting the ad-interim relief. In view of those judgments, he further submitted that the non-compliance of the Section 15A(5) of the said Act renders the order null and void. Relying on the judgments *Hariram Bhambi* (supra) and *Kishor Shinde* (supra), he contended that the word “order” here should also mean order passed for granting interim relief.

5. The issue in this case revolves around the provisions of Section 15A of the Atrocities Act. The Atrocities Act was amended in the year 2016 w.e.f. 26.01.2016, wherein the Section 15A was inserted. It provides for the rights of the victims and witnesses. The relevant provisions are extracted below:

“15A. Rights of victims and witnesses.—

- (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.*
- (2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.*
- (3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.*
- (4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.*
- (5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.....”*

(emphasis supplied)

6. The bare perusal of the provisions emphasized above, shows that the Victim has a right to reasonable, accurate, and timely notice of any

Court proceedings including bail proceedings. The victim also has a right to be heard at any proceeding under the Atrocities Act. The contention of the appellant that the notice is mandatory as per the section 15A(3) is valid, however, question arises as to whether the power of the court to grant an ad-interim/ urgent relief is said to have been taken away for the reason that informant/ victim is not heard. The above provision entitles a victim/ informant to receive reasonable, accurate and timely notice of any proceeding including bail, but unlike provision of Section 18 which creates complete embargo in grant of anticipatory bail in case offence is made out under Atrocities Act, no such embargo has been created by this provision.

7. On this point, the Calcutta High Court in ***Sudip Mondal*** (supra) has summarized its discussion in para 47 and has observed thus:

“47. Before proceeding to discuss the instant application for anticipatory bail on merit, we propose to lay down the gist of our discussion supra:

(i) The bar under Section 18 of the S.C. S.T. Act in respect of a petition for anticipatory bail under Section 438 Cr. P.C. is not absolute.

(i)(a) Such petition may be entertained and allowed in the event the court in session over the matter finds that no offence under the provisions of the S.C. S.T. Act is made out prima facie against the petitioner(s).

(ii) To find out the prima facie case no court should depend only on the F.I.R./complaint petition inasmuch as a meticulously drafted F.I.R./complaint petition may prejudice the accused and a casually drafted F.I.R. or complaint petition by a member of the S.C. S.T. community or on his/her instruction may prejudice the victim, if anticipatory bail is allowed or denied on reaching a prima facie conclusion regarding existence or non-existence of prima facie case covered by the provisions of the S.C. S.T. Act.

(ii)(a) In reaching the conclusion regarding existence or non-existence of prima facie case, the court should strive to go through the entire C.D. to find out the circumstances attending and following the transaction.

(iii) This court while declining to entertain a petition for anticipatory bail may direct the petitioner(s) to surrender before the competent Court and move petition under Section 439 Cr. P.C. In the event they surrender and move such petition, the competent court may also be directed to release them on interim bail if the offence committed by the accused is not heinous coupled with the offence enumerated in Section 3(1) of the S.C. S.T. Act.

(iii)(a) After hearing the Public Prosecutor/Special Public Prosecutor regarding sufficiency of notice on the victim or his/her dependant as required under subSection 3 of Section 15A of S.C. S.T. Act, the petition for bail shall be taken up for final hearing for disposal on merit in accordance with law irrespective of the fact whether the victim or his/her dependant is present or not.

(iii)(b) When a person surrenders to the jurisdiction of the competent court, it would be deemed that he has surrendered to the custody of the court and in that event a petition under Section 439 Cr. P.C. filed by him/her shall be competent and maintainable.

(iii)(c) In a petition under Section 439 Cr. P.C. the competent court should address the question of bail in the light of Article 21 of the Constitution of India as done in other offences not covered by provisions of S.C. S.T. Act. For offences covered under the S.C. S.T. Act same principle for bail should be adopted and applied. If offence is not heinous and especially an offence described under Section 3(1) of the S.C. S.T. Act interim bail as a rule should be granted awaiting sufficiency of notice under sub-Section 3 of Section 15A of the S.C. S.T. Act on the victim or his/her dependant.

(iii)(d) Though notice to the victim or his/her dependant is mandatory, their presence in the proceeding is not mandatory.

(emphasis supplied)

8. Relevant provisions of the Atrocities Act coupled with constitutional safeguards available to protect liberty of an individual which cannot be curtailed save and except as provided by the law, and therefore, this court is of the view that along with the rights of the victim, constitutional right of a person under Article 21 i.e. liberty of the applicant is also needed to be protected. A balance should be struck between the right of the victim and liberty of the anticipatory bail applicant. In order to strike that balance, victim should be heard before deciding the application finally but not necessarily to be heard before granting the ad-interim relief. In this way, the rights of the victim as well as of the applicant could be protected and balanced. No other interpretation would be possible having regard to the relevant provision of the Act.

9. While placing reliance on the judgment of the Apex Court in *Jeewanlal (1929) Ltd. Vs. Appellate Authority under the Payment of Gratuity Act and Ors.*, Ld. Counsel for the Appellant pointed out the following observation of the court:

“11. In construing a social welfare legislation the Court should adopt a beneficent rule of construction and if a section is capable of two constructions, that construction should be preferred which fulfils the policy of the Act and is more beneficial to the persons in whose interest the Act has been passed. When, however, the language is plain and unambiguous the Court must give effect to it whatever may be the consequence for in that case the words of the statute speak the intention of the legislature. When the language is explicit its consequences are for the legislature and not for the courts to consider. The argument of inconvenience and hardship is a dangerous one and is only admissible in construction where the meaning of the statute is obscure and there are two methods of construction. In

their anxiety to advance beneficent purpose of legislation the Courts must not yield to the temptation of seeking ambiguity when there is none.”

The observations made in this case are with respect to the Payment of Gratuity Act which no doubt is a beneficial legislation which provides civil rights. However, in the present case, the Atrocities act is involved though it is a legislation for the benefit of certain class, it cannot be ignored that it is criminal statute which has serious repercussions on the individual's liberty. Therefore, fundamental right of liberty under Article 21 cannot be ignored while construing beneficial statute.

10. He further placed reliance on the judgment of the Supreme Court in ***Union of India Vs. State of Maharashtra and Ors.*** (supra), wherein he pointed out the observation made by the court in para 49 as below:

“49) There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper Castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care in proceeding under section 482 of the Cr.PC.”

Here, there is no presumption of misuse of the Atrocities Act but the procedural absurdity is to be avoided by striking the balance between the individual liberty guaranteed by the Constitution as a

fundamental right and the statutory rights of the victim.

11. The Ld. Counsel for the Appellant further relied on the judgment of the division bench of this Court in ***Kishor Shivdas Shinde*** (supra), where he relied on the following observations:

*“9. At the cost of repetition, we say that the present order does not speak that the notice was issued to the informant and he was heard in view of the right that has been given under Section 15A (1) and (3) of the Atrocities Act. It cannot be said that as case is not made out for releasing an accused involving in the offence under the Atrocities Act; it is not necessary to issue notice to the informant. It is the first step that is required to be taken after the presentation of the application for bail. **When right has been given to the informant or the victim, then notice should be issued and he or she should be heard and then only either order can be passed, allowing or rejecting the application.**”*

(emphasis supplied)

12. This court would like to emphasize on the point that the observations made by the division bench of this court are with respect to the regular bail and not the anticipatory bail. The Calcutta High Court in the case ***Sudip Mondal*** (supra) differentiated the regular bail and anticipatory bail and while discussing the grant of interim protection without hearing the victim observed as below:

*“41. We feel further persuaded to observe here that, there is no concept of “interim bail” in the Code of Criminal Procedure. But, it is no more ‘res-integra’ that grant of interim bail is an incidental/implicit power in the hands of the Court exercising jurisdiction over “regular bail” under Section 439 Cr. P.C. **Such a facilitatory relief in an application for anticipatory bail while not entertaining the same, in our view, is a step forward to further the intention of the Constitution makers so far as the rights enshrined in Article 21 of the Constitution of India is concerned and shall take care of the anxiety of the legislature. No person should unnecessarily be detained awaiting a procedural requirement of notice to the victim or his dependent. But,***

while granting interim bail on the same day the petitioner surrenders, the Special Court should impose the conditions to protect the interest of the victim and his dependent, and the Special Court should also impose conditions binding down the petitioner to appear before the I.O. for the purpose of investigation at an interval of certain days or weeks, so that the petitioner cannot be in a position to repeat the offence which is alleged against him, and he cannot avoid the process of law and he cannot keep himself at large.”

(emphasis supplied)

13. As far as the rights of victim are concerned, they cannot be said to be curtailed because of grant of ad-interim bail at the initial stage of the bail proceedings since it is a constitutional right of the applicant to protect the liberty. Moreover, if the court finds it necessary, it can impose conditions on the Applicant in order to protect the rights of the victim. If the applicant is asked to wait until the victim is heard even for the grant of ad-interim relief, there is a possibility that for variety of reasons grant of relief in justified cases, would be postponed and ultimately it may result in causing miscarriage of justice. And most importantly, thereby, the constitutional right of liberty under Article 21 will be denied to the applicant.

14. Therefore, this court is of the view that the provision of issuance of notice is to be observed at every proceeding as is contemplated by Section 15A(3) of the Act, cannot be construed that it should be at all stages of the same proceedings, and the same would preclude the court to pass any order including grant of ad-interim protection. Any such interpretation would lead to an absurd situation such as without hearing the victim even notice cannot be issued. In absence of any provision creating an embargo on the court to grant such relief, which has been done specifically in provision of Section 18, where the case *prima facie* case is made out of commission of offence under Atrocities

Act, court ceases to have jurisdiction to grant pre-arrest bail, it cannot be so interpreted as sought to be asked by Counsel for Appellant.

15. There could be variety of situations and eventualities in which for the grant of relief it would become imperative for the court to pass an order without waiting for the service of notice to the informant/ victim. For example, *prima facie* case is not made out under the act and liberty of such individual is at stake. At various stages different orders are to be passed not affecting rights of the parties, etc.

16. In considered view of this court, appropriate interpretation to Section 15A(3) and (5) would be that right of parties involved in the proceedings cannot be decided finally without notice/hearing to the victim. This however would not take away power of the court to protect the liberty of person in appropriate cases keeping in mind the right under Article 21 of the Constitution.

17. Moreover, it is well settled principle that the *prima facie* observations made by the Court at interim stage are not binding on the same court while deciding the application finally. Hence, the Special Court is within its power to grant ad-interim bail and issue notice at the same instance.

18. The issue involved in this proceeding as recorded in Para 1 above is answered in affirmative. It is held that Special Court or High Court would have jurisdiction to grant ad-interim relief to protect liberty of applicant in appropriate cases and simultaneously issue notice to Victim/Informant for hearing of proceeding for its decision.

19. In view of above, this Appeal stands disposed of.

(R. M. JOSHI, J.)