

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 185 OF 2026

Arbaz Rafique Shaikh

...Appellant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. H.M. Pawar for the Appellant.

Mr. R.M. Pethe, APP for Respondent/State.

Ms. Vilasini Balsubramanian (appointed Adv) for Respondent No.2.

CORAM : R.M. JOSHI, J.

DATE : 23th FEBRUARY, 2026

P.C. :

1. Heard finally by consent of both the sides.
2. This appeal under Section 14A of the **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** ('Atrocities Act' for short) takes exception to order dated 11.02.2026 passed by Special Court rejecting application for pre-arrest bail.
3. Learned Counsel for the Appellant submits that prima facie perusal of First Information Report does not indicates offence under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 being committed by the Appellant-accused. It is his submission that the informant is major and First Information Report indicates that it was consensual relationship between them. It is his contention that without recording prima faice findings, application is rejected by relying judgment of Andhra Pradesh High Court in ***Smt. Vidadalal Rajani w/o. Kumara Swamy vs. State of Andhra Pradesh***¹.

¹ 2025 SCC Online AP 3404

4. Learned APP and learned Counsel for the Respondent No.2 objects for grant of any interim relief. It is their contention that First Information Report shows that since the Appellant had agreed to break engagement with another girl, relationship continued and thereafter, since Appellant has refused to marry, this is the case of false promise of marriage.

5. The Special Court has not recorded any findings with regard to offence being made out under Atrocities Act or not, and rejected the application relying upon the Judgment of ***Smt. Vidadalal Rajani (supra)***.

6. Since the learned Special Court has not decided the application by considering merits of the case, the impugned order deserves to be set aside and the application is required to be relegated back to the Special Court for decision afresh on merits.

7. *Prima facie*, perusal of the record indicates that the informant is major. The relationship is between informant and the Appellant is of atleast 2 years. Even after the engagement of the Appellant, on his oral statement about the fact that he is going to break the said engagement, relationship is re-established between them. In view of this fact, this Court find fit case to protect the liberty of the Appellant till Special Court decides the application.

8. Hence, the order.

(i) Appeal stands allowed.

(ii) Criminal Bail Application No. 693 of 2026 is relegated back to the Special Court for decision afresh. Special Court to decide the application within a period of 4 weeks from today.

(iii) There shall be interim protection to the Appellant in terms of prayer clause (A), for a period of 6 weeks from today.

9. It is clarified that this Court has not decided the merits of the case and it is open for the Special Court to decide the same after considering the merit.

(R.M. JOSHI, J.)