

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.81 OF 2026**

Divesh Suresh Kerekar & Anr.	...Applicants
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Sujit S. Alhat (through Video Conferencing), for the Applicants.
Ms. S. M. Yadav, APP, for the Respondent No.1-State.

**CORAM: MADHAV J. JAMDAR, J.
DATED : 14th JANUARY 2026**

PC:-

1. Heard Mr. Alhat, learned Counsel appearing for the Applicants and Ms. Yadav, learned APP appearing for the Respondent No.1-State.

2. This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail in connection with C.R. No.583 of 2025 registered with Yerwada Police Station, Pune, for the offences punishable under Sections 3(5), 49, 352 and 115(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(s) and 3(1)(r) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“the SC ST Act”).

3. The prosecution case is set out in paragraph No.3 of the order dated 16th December 2025 passed by the learned Additional Sessions Judge, Pune in Special Case No.1546 of 2025, which reads as under:

“03] He further contended that, on 23.08.2025 the informant had lodged report alleging therein that in the afternoon at about 01.30 p.m. he had stop in front of the shop near Buddha Vihar, Gandhi Nagar, Yerwada alongwith his colleague Santosh Kanade. From there he proceeded on his motorcycle to go to IBM Chowk. At that time, the co-accused and applicant were coming on their bullet motorcycle. The cut of their motorcycle was there to his motorcycle. Therefore, he stop the motorcycle. At that time, they put the motorcycle in front of his motorcycle and asked him, why he is seeing towards them. He told that, he is not seeing to them. At that time, the co-accused Sandesh Sawant came there and told both of them that, "बघताय काय या महाराला लय माजलेत हे." on which, Divesh Korekar i.e. co-accused and applicant alighted from the motorcycle and started assaulting him. He had seen something like weapon in the hand of applicant. At that time, his friend came there. On which they three of them ran on their bullet motorcycle.

04] He further contended that, the contents of the report shows that he had not abused the informant on his Caste. The informant had sustained simple

injury. The said fact shows that, nothing is to be recovered or discovered at his instance. He further contended that, the investigation officer had filed charge-sheet against him. The said fact is change in circumstance so has to entertain his subsequent bail application. The offence under the provision of Atrocity Act is not made out against him. He prayed that, he may be released on anticipatory bail.”

4. It is the main submission of Mr. Alhat, learned Counsel appearing for the Applicants that perusal of the FIR do not show that the Applicant is involved in the crime and in any case, the FIR shows that the Applicant is not involved in the crime under the SC ST Act. He submits that as far as in the FIR main allegations are made against the Sandesh Chandrakant Sawant, who is accused No.1. However, during investigation nothing has been found even against him and therefore, charge-sheet is not filed against him. He submits that although the Applicants are not involved in the crime, the charge-sheet is filed against them. However, he submits that even the material annexed to the charge-sheet also do not show the involvement of the Applicants in the crime and in any case, in the crime under the SC ST Act. He submits that there are no antecedents against the Applicants. He submits that the charge-sheet has already been filed, thus, the investigation is completed.

5. On the other hand, Ms. Yadav, learned APP strongly opposes the Anticipatory Bail Application. She submits that the offence is under the SCST Act and therefore, provisions of Section 438 of the Code of Criminal Procedure, 1973 i.e. Section 482 of the Bharatiya Nyaya Sanhita, 2023 is not applicable. In view of the said contention raised by Ms. Yadav, learned APP, Mr. Alhat, learned Counsel appearing for the Applicants relies on the decision of the Supreme Court in the case of *Prathvi Raj Chauhan vs. Union of India*¹

6. At the outset, it is required to be noted that in the said decision of *Prathvi Raj Chauhan* (supra) reliance is also placed on the decision of the Supreme Court in the case of *Vilas Pandurang Pawar vs. State of Maharashtra*² on paragraph No.10 of the same, which reads as under:

“10. The scope of Section 18 of the SC/ST Act read with Section 438 of the Code is such that it creates a specific bar in the grant of anticipatory bail. When an offence is registered against a person under the provisions of the SC/ST Act, no court shall entertain an application for anticipatory bail, unless it prima facie finds that such an offence is not made out.

1 (2020) 4 SCC 727

2 (2012) 8 SCC 795

Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. The court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the Special Act to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence.”

7. Thus, the Supreme Court has said that when an offence is registered against a person under the provisions of the SC ST Act, no court shall entertain an application for anticipatory bail, unless it *prima facie* finds that such an offence is not made out.

8. Perusal of the FIR shows that the allegations of caste based abuse are against accused No.1-Sandesh Chandrakant Sawant. No charge-sheet has been filed against him. As far as allegations concerning SC ST Act is concerned, the same are not against the Applicants. Accordingly, bar under Section 18 of the SC ST Act is not applicable. The charge-sheet is already filed, thus the investigation is completed.

9. Accordingly, the case is made out for grant of Anticipatory Bail. In view thereof, the following order is passed:

ORDER

- (a) In the event of arrest of the Applicant No.1-Divesh Suresh Kerekar and the Applicant No.2-Soham Sunil Jadhav in connection with C.R. No.583 of 2025 registered with the Yerwada Police Station, Pune, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties each in the like amount.
- (b) The Applicants shall attend the Yerwada Police Station, Pune, as and when called by the Investigating Officer and shall cooperate with the investigation.
- (c) The Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicants shall not directly or indirectly make any inducement, threat, or promise to any person

acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- (e) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

10. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]

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