



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 387 OF 2025

NAMRATA W/O NILESH NARWADE
Vrs.
STATE OF MAHARASHTRA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. J. Thakkar, Advocate for appellant.
Shri U. R. Phasate, A. P. P. for respondent No.1.
Shri A. U. Deshmukh, Advocate for respondent Nos.2 to 5.

CORAM: Y. G. KHOBRAGADE, J.
DATE : 16/04/2026.

1. Heard Shri A.J. Thakkar, learned counsel appearing for the appellant / Informant, Shri U. R. Phasate, learned APP for respondent No.1 and Shri A. U. Deshmukh, learned counsel appearing for the respondent Nos 2 to 5 / accused.

2. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant / informant takes exception to the order dated 14/07/2025 passed in Criminal Bail Application No.144/2025 by the learned Special Judge / Additional Sessions Judge, Malkapur,

thereby, enlarged the respondent Nos.2 to 5 / accused on anticipatory bail in connection with Crime No.232/2025 registered with Borakhadi Police Station on 18/05/2025 for the offences punishable under Sections 296, 115 and 118(1) r/w Section 3(5) of Bhartiya Nayay Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SCST Act").

3. Having regard to the submissions canvassed on behalf of both the parties, I have gone through the record.

4. It is a matter of record that, on 13/03/2025, the present appellant / informant and others have purchased the land bearing Gat No.299 admeasuring 10.81 HR land of village Motala, Dist. Buldhana from the vendors Suman Sitaram Satav and others. On the face of record, it appears about long standing dispute between the present respondent Nos.2 to 5 / accused and previous owners of the agricultural field Gat No.299. As per the contents of FIR, on 18/05/2025 at 11.30 a.m., when the

informant with others visited the field for cultivation, at that time, the present respondent Nos.2 to 5 / accused visited there and abused by saying that she belongs to Scheduled Caste. It is further alleged that the respondent Nos.2 to 5 also abused her in filthy language and assaulted with axe and sticks. Due to the said assault, she as well as others sustained injuries.

5. Learned counsel appearing for the appellant/informant canvassed that, the incident of casteist slur at the hands of the respondent Nos.2 to 5 occurred in the field of appellant / informant in the public view. Therefore, as per the provisions of Section 18 of the SCST Act, bar is created to enlarge the respondent Nos.2 to 5 / accused on anticipatory bail under Section 438 of the Code of Criminal Procedure (Section 482 of the BNSS, 2023). However, on 14/07/2025, the learned Special Court passed the impugned order and enlarged the respondent Nos.2 to 5 / accused on anticipatory bail. Therefore, the impugned order is illegal, perverse and needs to be quashed and set aside.

6. Per contra, Shri A. U. Deshmukh, learned counsel appearing for the respondent Nos.2 to 5 canvassed in vehemence that, there is long standing dispute about the agricultural field between the respondent Nos.2 to 5 and the appellant. So also, the incident of casteist slur never occurred. Further, as per the contents of the FIR, the incident was occurred in the field away from the village and it was not in public view. Therefore, the learned Trial Court passed the impugned order and enlarged the respondent Nos.2 to 5 on anticipatory bail. The appellant / informant has not set out substantial grounds to interfere with the findings recorded by the Trial Court. Hence, prayed for dismissal of the appeal.

7. Needless to say that as per the contents of the FIR, the incident of casteist slur to the appellant / informant is occurred in the field when the informant and her associates were cultivating the land. The FIR does not reflect about presence of the neighbour's agriculturists in the field or they heard casteist slur abused by the respondent Nos.2 to 5. As per the contents of the FIR, the

appellant / informant and others have sustained some injuries, but no Injury Certificate is placed on record by the prosecution.

8. During the course of argument, learned APP has produced the case diary.

9. As per the record, the injured Ganesh Umale sustained fracture of fronto nasal process of right maxilla. However, the Medical Certificate issued by Dr.Dinesh Agrawal, M.D. Radiologist does not reflect that the said injury is of grievous nature and danger to the life of the injured.

10. In Kiran Vrs. Rajkumar Jivraj Jain and others, AIR 2025 SC 4083, wherein, in Paragraph No.6, the Hon'ble Supreme Court has observed thus :-

“6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes, Act, 1989 with express language excludes the applicability of Section 438, Cr.PC, it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1. The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2. Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial."

11. In Karuppudayar Vs. State Rep. By The Deputy Superintendent of Police & Ors, 2025(2) CGLJ 316, the Hon'ble Supreme Court held that if the offence under the Atrocities Act occurred within the four-corner of the house, it do not prima facie constitute an offence either under Section 3(1)(r) or under Section 3(1)(s) of the SC/ST Act.

12. On careful consideration of both cases cited above, if the offence under Section 3 of the SCST Act is occurred within the public view, in that event, the bar is created under Section 18 of the SCST Act to enlarge the appellant / accused on anticipatory bail. However, in case in hand, it prima facie appears that the incident of alleged

casteist slur is occurred in the field which does not appear to be in the public view. The contents of the FIR also does not reflect that at the time of incident, the other neighbour's agriculturists were present at the spot and the respondent Nos.2 to 5 / accused casteist slured the appellant with an intention to humiliate. Therefore, to my view, no bar under Section 18 creates to enlarge the appellant / accused on pre-arrest bail.

13. On 14/07/2025, the learned Special Judge passed the impugned and order holding about existence of long standing civil dispute between the parties and civil suit is already pending. Further, the incident narrated in FIR not occurred within the public view and enlarged the respondent Nos.2 to 5 on anticipatory bail.

14. Therefore, I do not find that the appellant has made out a substantial ground to interfere with the said finding. Hence, the appeal is dismissed.

[JUDGE]