



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 01 OF 2026

APPELLANTS

- : 1] Shubham Kisan Zade,
Aged about 27 years, Occu. Service,
- 2] Pushpa Kisan Zade,
Aged about 60 years, Occu. Household,
- Nos.1 and 2 are R/o Nehru Nagar,
Ward No.4, Chandrapur.
Tah. & Distl. Chandrapur
- 3] Sunitatai Gajananrao Satone,
Aged about 44 years, Occu. Household,
R/o Hinganghat, Tah. Hinganghat,
Dist. Wardha.

VERSUS

RESPONDENTS

- : 1] State of Maharashtra,
through P.S.O., Police Station,
Gadchiroli, Tah. & Dist. Gadchiroli
- 2] Smt. Sanjana Shubham Zade,
Aged about Adult, Occu. Housewife,
R/o Ayodhya Nagar, Gadchiroli,
Gadchiroli – 442 605.

Mr. Manojkumar R. Mishra, Advocate for the appellants.
Mrs. H. N. Prabhu, A.P.P. for respondent no.1/State
Mr. Bodhi S. Ramteke, Advocate for respondent no.2

CORAM : M. W. CHANDWANI, J.
Reserved on : Ferbruary 02, 2026
Pronounced on : February 16, 2026

JUDGMENT:

1. Heard.
2. **ADMIT.** Taken up for final disposal forthwith by consent of the learned counsels appearing for the parties.
3. In this appeal filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Atrocities Act” for short), challenge is to the order dated 16.12.2025, passed by learned Sessions Judge, Gadchiroli in Criminal Anticipatory Bail Application No. 292/2025 arising out of Crime No. 1196/2025, whereby the learned Sessions Judge rejected the application filed by the appellants for anticipatory bail.
4. On the basis of the report lodged by respondent no.2 with Police Station, Gadchiroli, an offence bearing Crime No. 1196/2025 came to be registered against the appellants for the offences punishable under Sections 85, 115 read with section 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(z) and 3(2)(va) of the Atrocities Act.

5. The complainant/respondent no.2 is the wife of appellant no.1 Shubham Kisan Zade. Appellant no.2 is the mother-in-law and appellant no.3 is the cousin mother-in-law of the complainant. The report lodged by the complainant reveals that the marriage of the complainant and appellant no.1 was solemnized on 01.06.2025 at Chandrapur. Since, the complainant belongs to Scheduled Tribes, there was opposition to their marriage. After 4-5 days of the marriage, the complainant was subjected to ill-treatment and mental harassment at the hands of the appellants on account of demand of dowry. She was insulted by appellant nos.2 and 3 and co-accused Kisan (father-in-law) by saying that she belongs to lower caste. They repeatedly used to say that the complainant is mentally sick and used to insist appellant no.1 to leave her. It is alleged that appellant no.1, on the pretext of going to the place of his service at Bembal, Chandrapur, took the complainant to a woman (bhaktin) who used to perform rituals at Fiskuti, Mul. When the complainant refused to go there, appellant no.1 beat her. Appellant no.1 repeatedly used to ask the complainant to go to her parents house. Even though, she was not ready to the same, on 21.09.2025, appellant no.1 forcibly sent her to her parents house and since

then, she is residing at her parents house at Gadchiroli. She tried to contact appellant no.1 on his mobile phone, however, he did not receive the call. Therefore, the complainant lodged report against the appellants and other co-accused. On the basis of the said report, the aforesaid offence came to be registered against them.

6. I have heard Mr. Manojkumar Mishra, learned counsel appearing for the appellants, Mrs. H.N. Prabhu, learned A.P.P. appearing for respondent no.1 State and Mr. Bodhi Ramteke, learned counsel appearing for respondent no.2. Perused the case diary.

7. No doubt, there is a bar under Section 18 and 18A of the Atrocities Act for grant of anticipatory bail if the accused is alleged to have committed an offence under the said Act. However, if the complaint fails to *prima facie* make out a case for applicability of the Atrocities Act, then the bar created under Sections 18 and 18A shall not apply.

8. Perusal of the FIR reveals that the complainant has

alleged that appellant nos.2 and 3 and other co-accused Kisan abused her and her father, by saying that they belong to a lower caste and insisted appellant no.1 to leave the complainant. It is alleged that appellant no.2 used to express her displeasure about the fact that the complainant has not brought any dowry from her father. When they went to reside at Bembal, Chandrapur, appellant nos.2 and 3 and co-accused Kisan used to ask appellant no.1 not to bring her back at the house. They also used to say that they will perform the second marriage of appellant no.1 with a girl belonging to their caste. Perusal of the FIR further reveals that the alleged incident of abuse in the name of caste happened inside the house. In the FIR, it is nowhere mentioned that the alleged incident of abuse in the name of the caste has happened at a public place or in public view.

9. The statement of the father of the complainant was recorded which reveals that when he went to meet his daughter at her matrimonial home, all the appellants told him that he and his daughter belong to lower caste and therefore, they will not take her back for cohabitation.

10. One of the witnesses whose statement was recorded by the police claims that he had accompanied the father of the complainant at the matrimonial house of the complainant at Chandrapur. When they reached there, he waited outside the house, but he heard and saw that the complainant and her father were being abused in the name of their caste. Though, the witness claims that he heard as well as saw the applicant and other co-accused abusing the father of the complainant by referring to his caste, the fact remains that he was standing outside the house on the road. There is no whisper in the statement that the door of the house was open. Perusal of the statement of the father of the complainant under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 reveals that after abusing him in the name of caste, he was ousted from the room by the appellants. Thus, *prima facie*, it appears that the alleged incident has happened in the courtyard of the house of the applicants when the complainant and her father were in the courtyard. Therefore, the alleged incident of abusing did not take place in a public view.

11. That apart, the allegation is that all the four accused

persons had hurled abuses in the name of caste in chorus. The abuse cannot be in chorus. That apart, the allegation of abuse in the statement of the father is that the family members from the matrimonial house of the complainant abused him. Thus, from the statement of the father of the complainant it is not revealed as to who abused him in the name of his caste.

12. In view of the above and especially when no specific role is attributed to any of the appellants, *prima facie*, it cannot be said that the appellants have abused the complainant and her father in the name of their caste.

13. In the case of *Kiran S/o Madhukar Ingle .vs. State of Maharashtra and another* in *Criminal Appeal No. 787/2018, decided on 26.02.2019*, the coordinate bench of this Court at Aurangabad has held as under :

“13. It is explicitly made clear that the Court of Sessions or High Court can entertain the application for pre-arrest bail to ascertain its maintainability. The law does not permit to reject the application for anticipatory bail merely because the case has been registered under section 3 of the Act of 1989. But, it is incumbent on the part of the Court to examine as to whether the applicant at all is a fit person to be treated as

accused of the crime registered under the Act of 1989. Section 18 of the Act of 1989 does not bar judicial scrutiny of the accusation made in the complaint. When the Court is held competent to enter into scrutiny of the allegations to determine whether the person can be treated as accused of commission of offence under the Act of 1989, then question would arise as to what extent the Court would be justified to examine material to determine the prima facie case against him.

15. The exposition of law as referred above unequivocally pointer to the inference that the application for anticipatory bail can be entertained only on the ground of inapplicability of the provisions of Act of 1989 and it would be ascertainable only on perusal of recitals of the FIR or complaint and not beyond that, because once it is gathered from the FIR that the applicant is accused of committing the offence prescribed under section 3 of the Act of 1989, a bar under section 18 of the Act of 1989 would instantly operate against him. Therefore, the Courts are not permitted to enter into roving enquiry in regard to sustainability of accusation nurtured on behalf of complainant. Moreover, further scrutiny by summoning the case diary or other material to test veracity of the allegations made in the FIR also not permissible under the law.”

14. Considering the material in the case diary, the allegation of abuse in the FIR is in a room and not in a public view. So far as the allegation of abuses in the statement of the father of the complainant is concerned, it is not clear as to which appellant had abused the complainant and her father in the name

of their caste, by saying that they belong to a lower caste. It is also not clear whether the complainant and her father were abused in a public view. The learned Sessions Judge has not considered all these aspects and erroneously rejected the application of the appellants for anticipatory bail.

15. In view of the above, the bar under Sections 18 and 18A of the Atrocities Act does not apply. Considering the nature of allegations, no custodial interrogation of the appellants is required. The appellants were protected by the interim order dated 01.01.2026 passed by this Court and they cooperated in the investigation. Therefore, a case is made out for confirmation of the same.

16. Accordingly, the criminal appeal is allowed.

i) The impugned order dated 16.12.2025, passed by learned Sessions Judge, Gadchiroli in Criminal Anticipatory Bail Application No. 292/2025 is quashed and set aside.

(ii) The application made by the appellants for anticipatory bail is allowed.

(iii) Interim protection granted to appellant nos.1 to 3 on 01.01.2026 is confirmed on the same terms and conditions.

(iv) The appellants shall attend the concerned police station as and when directed by the Investigating Officer.

17. The appeal stands disposed of in the aforesaid terms.

(M.W.Chandwani,J.)

Diwale