



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

CRIMINAL APPEAL NO.31/2026

(Dinesh S/o Nilkanth Khandre Vs. State of Maharashtra, through its Police Station Officer, Police Station Pandharkawda, Distt. Yavatmal and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.M. Daga, Advocate for the Appellant.
Mr. Bhagwan M. Lonare, A.P.P. for the Respondent No.1/State.
Ms. Deepali Patil-Shahare, Advocate (appointed) for the Respondent No.2/Victim.

CORAM: NEERAJ P. DHOTE, J.

DATED: 27.2.2026.

This is an Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SCST") Act against the rejection of Anticipatory Bail Application No.05/2026 by the learned Additional Sessions Judge, Kelapur by order dated 13.01.2026.

2. The Appellant is the accused No.2 in Crime No.0011/2026, registered with Pandharkawda Police Station, District Yavatmal on the Report lodged by the Respondent No.2, for the offence punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act and for the offence punishable under Sections 118(2), 115(2), 352, 351(2), 351(3) and 3(5) of the Bhartiya Nyaya Sanhita (for short "BNS").

3. The Respondent No.2 lodged the Report that, he belongs to the Scheduled Caste and resides at village Pipri, Taluka Kelapur, District Yavatmal and is the Labour. The Appellant and the accused No.1 are

residing in the same ward. The Appellant always used to pick-up quarrel and threaten the Respondent No.2 and his family members on account of putting the flags in the honour Dr. Babasaheb. On 03.01.2026 around 10.00 p.m. when the Respondent No.2 went to the side of his house to check whether the pipeline was damaged, the accused No.1 came there and asked him the purpose of coming there. The Respondent No.2 told him that, he came to check the pipeline. The accused No.1 thought that, the Respondent No.2 was doing something wrong and so he abused the Respondent No.2 and asked him to return home. As the Respondent No.2 did not pay any heed, the accused No.1 started abusing him. At that point of time, the Appellant came there with iron rod in his hand and abused the Respondent No.2 on his caste by saying that '*Tu Madgi Asun Babasahebancha Nad Kashala Karit Aahe*'. The Respondent No.2 told them not to trouble him unnecessarily. Quarrel took place between them and the Appellant and the accused No.1 used bad words. The accused No.1 took the iron rod from the Appellant and assaulted the Respondent No.2. Being frightened, the Respondent No.2 ran towards the house of his uncle and the Appellant and the accused No.1 followed him. When the Respondent No.2 reached in front of the house of his uncle, accused No.1 assaulted him with rod. The Respondent No.2 shouted. The cousin brother, uncle and sister-in-law of the Respondent No.2 came there and rescued the Respondent No.2. The Appellant and the accused No.1 threatened him and slapped the uncle of Respondent No.2. The Respondent No.2 was taken to the hospital for treatment. Doctor told him that, he suffered fracture in

his hand and leg. The Report was written down and the above referred crime came to be registered.

4. Heard the learned Advocate for the Appellant, the learned A.P.P for the State and the learned Advocate for the Respondent No.2. Perused the papers.

5. It is submitted by the learned Advocate for the Appellant that, the F.I.R. do not make out the offence punishable under the provisions of SCST Act as the Respondent No.2 did not state that, the act of abusing him on the caste was made in presence of any member of public. He submitted that, the incident did not take place within the public view. He submitted that, the role of assault by the iron rod is attributed to the accused No.1. The learned Additional Sessions Judge rejected the Application on the ground that, the incident occurred on the public road and there was *prima facie* case and the Investigating Officer opposed the Application on the ground that, the iron rod was to be recovered and since both the sides were residing in the same locality, possibility of repeating of the offence cannot be ruled out. He submitted that, the Appeal be allowed.

In support of his submissions, he relied on the orders in (1) Criminal Appeal No.1471/2025 by the Hon'ble Supreme Court of India in Deepak Kumar Tala Vs. State of Andhra Pradesh and others dated 25.03.2025, (2) Criminal Appeal No.1030/2018 in Salim Abdul Shaikh V/s. The State of Maharashtra of this Court dated 25.09.2019 and (3) Criminal Appeal No.182/2022 in Vishal Shrikrushna Mahalle V/s. State of Maharashtra and another of this Court dated 02.05.2022.

6. It is submitted by the learned A.P.P. for the State that, the F.I.R. clearly shows that, the incident took place within the public view. The relatives of the Respondent No.2 reached on the spot after hearing the hue and cry. The reply was filed by the Investigating Officer showing the stage of the investigation. He submitted that, the Appeal be dismissed.

7. It is submitted by the learned Advocate for the Respondent No.2 that, the F.I.R. clearly makes out the offence for which the crime is registered. *Prima facie* offence under the SCST Act was made out and, therefore, the Appellant was not entitled for the relief of anticipatory bail in view of the bar under Section 18 of the SCST Act. The Respondent No.2 suffered grievous injury in the incident and the investigation was not yet complete. She submitted that, the Appeal be dismissed. In support of her submissions, she relied on the decisions in Kiran V/s. Rajkumar Jivraj Jain and another, 2025 SCC OnLine SC 1886 and Ramrao Kashinath Rathod V/s. State of Maharashtra, 2022 SCC Online Bom 894.

8A) In Deepak Kumar Tala (*supra*) the case of the prosecution was that, the Informant/Complainant who belonged to the Scheduled Caste was threatened, abused on caste and was asked to stop reciting prayers. He was abducted and kept in lock-up for several days and thereafter he was taken to one Petrol Station and threatened to transfer the Temple's land in the name of the Appellant therein. The Complainant was rescued by the Police and the accused persons were arrested. The Hon'ble Court found that there was only one alleged instance of an insult/caste slur but there was no allegation that, such offending statement was made in the presence of members of general

public and, therefore, the essential ingredients of the Section 18 of the SCST Act i.e. such statement must be within “public view”, was not made out.

8B) In Salim Abdul Shaikh (*supra*) by considering the judgment in the other cases, it was observed that, from the F.I.R. the offence was not made out. The case of prosecution was that, the First Informant along with her husband and children went to the parking place of the society where the accused therein abused the Informant and her husband in the name of their caste and considering the judgment of the Division Bench of this Court wherein the provisions of SCST Act were considered, observed that, the bar under Section 18 of the SCST Act was not applicable in that case.

8C) In Vishal S/o Shrikrushna Mahalle (*supra*) it was found that, the incident of insult or intimidation did not occur in presence of public and as such prerequisite to constitute the offence under the provisions of SCST Act were not made out and, therefore, bar under Section 18 of the SCST Act would not come in the way.

8D) In Kiran (*supra*) the Complainant belonged to the Scheduled Caste and it was the case of prosecution that, the Complainant was abused on his caste by the accused therein and the incident took place outside the house of the Complainant where others were present and the order of the High Court was held to be unsustainable in view of the bar under Section 18 of the SCST Act.

8E) In Ramrao Kashinath Rathod (*supra*) the previous decisions on the provisions of Section 18 of the SCST Act including decision in Vilas Pandurang Pawar V/s. State of Maharashtra, (2012) SCC 795 was considered wherein it was observed that, Section 18 of the SCST

Act creates a specific bar in the grant of anticipatory bail unless, *prima facie*, offence is not made out and further observed that, the scope of appreciation of evidence and other material on record is limited and the Court is not expected to indulge in the critical analysis of the evidence on record.

9. Coming to the case at hand, undisputedly, the Appellant is named in the F.I.R. The Respondent No.2 belongs to the Scheduled Caste. The incident dated 03.01.2026 is clearly narrated by the Respondent No.2. The F.I.R. clearly shows that, the incident took place when the Respondent No.2 came out of his house to check the pipeline. He has narrated the abusive words used by the Appellant on his caste on the spot which was outside the house. The F.I.R. clearly shows that, the incident took place within the public view as provided in the Sections of the SCST Act under which the crime is registered. The affidavit-in-reply filed by the Respondent No.1 i.e. State shows that, the Investigating Officer recorded the statement of witnesses including the statement of the eye witnesses who have specifically taken the name of the Appellant and the co-accused that they assaulted the Informant and abused him towards his caste. Considering the facts and circumstances of the case and *prima facie* case under the SCST Act, the Appellant is not entitled for the protection of anticipatory bail in view of the bar under Section 18 of the SCST Act. No error can be said to be committed by the learned Additional Sessions Judge in rejecting the Application for anticipatory bail. Hence, the following order:-

ORDER

- i) The Appeal is dismissed.

ii) The fees of the learned Advocate appointed for Respondent No.2/Victim is quantified at Rs.7,500/-. The same be paid accordingly by the High Court Legal Services Authority.

(NEERAJ P DHOTE, J.)