



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 109 OF 2021

1. Raju s/o Sitaram Rathod
Age 36 years, Occu: Agri
2. Anil s/o Sitaram Rathod ... **Appellants**
Age 30 years, Occu: Agri
3. Bhau @ Yuvraj s/o Sitaram Rathod
Age 20 years, Occu: Ari
All Ambu Naik Tanda,
Khandavi, Tq. Georai, Dist. Beed

VERSUS

1. The State of Maharashtra
Though Police Station, Georai Dist. Beed
2. Santosh s/o Sanjay Bhosale ... **Respondents**
Age 30 years, Occu: Agri
R/o Ambu Naik Tanda,
Khandavi, Tq. Georai, Dist. Beed

Mr. Vilas P. Sawant, Advocate for the Appellants
Mr. V. M. Chate, APP for the Respondent State
Ms. Sawari M. Patil, Advocate for Respondent No.2-Appointed

CORAM : Y. G. KHOBRADE, J.

RESERVED ON : 17.03.2026

PRONOUNCED ON : 23.03.2026

JUDGMENT:-

1. Heard Shri Vilas P. Sawant, learned counsel for the Appellants,
Mr. V. M. Chate, learned APP for the Respondent State and Ms. Sawari M.
Patil, learned counsel appointed through the legal aid for the Respondent
No.2.

2. By the present Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants/original accused take exception to the order dated 04.02.2021 passed by the learned Special/Additional Sessions Judge, Beed, in Criminal Bail Application No. 54 of 2021, whereby the learned Judge declined to grant anticipatory bail to the present appellants in connection with Crime No. 420 of 2020, registered with Georai Police Station, District Beed, for the offences punishable under Sections 324, 323, 143, 147, 148 r/w Sec. 149 and 427 of the Indian Penal Code, 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.

3. Having regard to the submissions canvassed on behalf of the respective parties, I have gone through the contents of the FIR.

4. It is a matter of record that, on 19.09.2020, respondent No. 2/informant lodged a report with Georai Police Station, District Beed, alleging that he belongs to the community of Pardhi, a tribal community. He stated that on 18.09.2020, at about 8.00 p.m., his five-year-old son, Umesh Santosh Bhosale was stoned by Shiva Sitaram Rathod while he was going to the shop. His son Umesh returned home while screaming at his grandmother Smt. Darabai Mohan Bhosale, who questioned Shiva Sitaram Rathod as to why he had stoned her grandson and then returned home.

The mother of present Respondent no. 2 was followed by original accused No. 1 Shiva Sitaram Rathod, along with several others, namely Kailas Chavan, Ramu Prakash Chavan, Sunil Dev Chavan, Vijay Prabhu Rathod, Gorakh Chashthan, Naya Chayan, Prakash Chavan, Vijay Ramu Chavan, Sanjay Pomya Chavan, Kakasaheb Namdev Chavan, Ashok Namdev Chavan, Palya Ramu Chavan, Avesh Ankush Chavan, Ankush Chavan, Nitin Chavan, Ramu Chavan, Bhau Chavan, Sudam Chashthan, Bhau Rathod (appellant No. 3), Raju Rathod (appellant No. 1), Anil Rathod (appellant No. 2), Deo Soma Chavan and Sunil Deo Chavan. Thereafter, the crowd of about twenty-four persons came to the Pardhi vasti armed with sticks and axes and without any enquiry they started assaulting men, women and children indiscriminately of Pardhi Community. The informant's mother Smt. Dari Mohan Bhosale, fell unconscious at the spot due to the assault. Shri Sudam Bhau Chavan allegedly struck the informant on his hand with a stick. Taking advantage of darkness, the informant ran away and hid at a dark place and witnessed the incident. The mob vandalized his house, damaged his motorcycle, destroyed household articles and also damaged the roof of his house. Thereafter, the mob proceeded to the house of Mentab Mohan Bhosale and assaulted Kunjya Ramu Chavan, Rukmini Chavan, Maintab Mohan Bhosale and Shahadeo Congress Chavan. It is further alleged that, Shri Avesh Ankush Chavan, Nitin Chavan, Ramu Chavan, Bhau Chavan, Shiva Chavan, Anil

Ankush Chavan and Sudam Chavan dragged Kajal Mentab Bhosale to the ground and assaulted her, due to which she was unable to stand. Smt. Rukminibai also sustained a head injury. The accused belongs to Banjara community and all the accused jointly attacked on him as well as on the male and female members of Pardhi Community. On the basis of said report, Crime No. 420 of 2020 came to be registered with Georai Police Station, District Beed, for the aforesaid offences.

5. After registration of the crime, the present appellants/accused approached the learned Additional Sessions Judge, Beed, by filing Criminal Bail Application No. 54 of 2021. By order dated 04.02.2021, the learned Additional Sessions Judge rejected the said application. The learned Trial Court observed that, the statements of the informant and the witnesses recorded under Section 161 of the Code of Criminal Procedure, supports the occurrence of the incident, and that the names of the appellants and other co-accused are specifically mentioned therein. The learned Trial Court further observed that, the incident took place in the locality where the informant and members of his community resides and sufficient material available on record to show the involvement of the appellants/accused while commission of the alleged offences.

6. The learned counsel appearing for the appellants canvassed that, the alleged incident took place during night hours and that there is no

whisper in the FIR regarding any abusement on caste of the Respondent No. 2 on part of the appellants/accused. It is further submitted that, eight co-accused, namely Bhau Chavan, Sudam Chavan, Avesh Chavan, Ankush Chavan, Sanjay Chavan, Pralhad @ Palya Chavan, Sunil Chavan and Deu Chavan, who are involved in the same crime and are already enlarged on anticipatory bail by order dated 04.12.2020 passed by this Court in Criminal Appeal Nos. 620 of 2020, 585 of 2020 and 553 of 2020. Therefore, on the ground of parity, the present appellants are also entitled to anticipatory bail. Hence, prayed for quashment of impugned order dated 04-2-2021 and to released the appellants accused on anticipatory bail.

7. The learned APP canvassed that, as per the narration in the FIR the group of about 24 persons including the present appellants attacked on locality of Pardhi community and destroyed their houses/hutments and thrown away their Household articles during course of the incident. The incident took place in the Pardhi Vasti, where several persons, including the informant's mother and others were severely beaten and substantial damage was caused to the informant's property. It is further submitted that the said incident occurred in the Pardhi Vasti and within public view.

8. In support of his submissions, the learned APP has placed reliance on the case of *Kiran Vs. Rajkumar Jivraj Jain and Ors, 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.”

9. Ms. Sawari M. Patil, learned counsel appointed through the legal aid for the Respondent No.2, supported submissions canvassed on behalf of the prosecution. She canvassed that, the appellants and other accused

persons have visited the locality of the Respondent no. 2 and assaulted the male and female members of Pardhi, Scheduled Tribe Community and destroyed their hutments with ill motive. So also, the appellants and other accused outraged modesty of the female members of the Pardhi, Scheduled Tribe Community and said incident occurred in public place and within the public view. Therefore, as per Section 18 of the Special Act bar is created to enlarge the appellants on anticipatory bail, hence, prayed for dismissal of the appeal.

10. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the FIR. On perusal of the FIR, it appears that the informant/respondent No. 2 has alleged that the group of about 24 persons including the present appellants visited at the locality of Pardhi Community armed with sticks and axes, and without any enquiry, they started assaulting men, women and children of the Pardhi Community, which is recognized as Scheduled Tribe. The informant was allegedly assaulted with a stick by accused Sudam Bhau Chavan. Ms Kajal was severely beaten on her thigh and that Rukminibai sustained a head injury. Though it is contended that, the informant belongs to the Pardhi community and the accused persons belong to the Banjara community, however, there is no specific allegations about abusement on caste or any over act attributed to the present appellants. The informant has not stated

that, the appellants abused him on the basis of caste within public view with intent to insult him. The prosecution has failed to prima facie show that, the alleged acts were committed solely on account of the informant and his family members belonging to a particular caste or tribe. However, it appears that, because of master Umesh Santosh Bhosale, the son of Respondent no. 2 was stoned by one of the Accused Shiva Sitaram Rathod while he was going to the shop and returned while screaming but there is no allegation about abusement on Caste. In view thereof, prima facie, no offence under the Atrocities Act is made out, and consequently, there was no bar under Section 18 of the said Act for the learned Special Judge to entertain the application under Section 438 of the Code of Criminal Procedure, in light of the settled position of law laid down by this Court as well as the Hon'ble Apex Court, particularly in ***Prithviraj Chavan v. Union of India*** (Writ Petition No. 1015 of 2018, decided on 10.02.2020)

11. In the case of ***Kiran Vs. Rajkumar*** cited (supra), it has been held that, Section 18 of the SC/ST Act 1989, exclude the applicability of Section 438 of Cr.PC., it creates a bar against grant of anticipatory bail in absolute terms in relation to the arrest of a person who faces specific accusation having committed the offence under the SC/ST Atrocities Act within the public view.

12. It appears from the record that, eight co-accused, namely Bhau Chavan, Sudam Chavan, Avesh Chavan, Ankush Chavan, Sanjay Chavan, Pralhad @ Palya Chavan, Sunil Chavan and Deu Chavan, who were involved in the same crime and allegedly played rolls similar to the present appellants/ accused are already released on anticipatory bail by this Court (Coram: Smt. Vibha Kankanwadi, J.) on 04.12.2020 in Criminal Appeal Nos. 620 of 2020, 585 of 2020 and 553 of 2020. The prosecution has not separately attributed any distinct or specific role to the present appellants as compared to the said co-accused. In such circumstances, the principle of parity would apply in favour of the present appellants for grant of anticipatory bail. Accordingly, in view of the law laid down in the aforesaid decisions, the appellants have made out a prima facie case for the grant of anticipatory bail, and therefore, the impugned order, deserves to be quashed and set aside.

13. On 04.03.2021, this Court passed an order and enlarged the appellants accused on interim anticipatory bail on certain conditions. Therefore it would be just and proper to confirm and extend the interim order till conclusion of the trial, on same terms and conditions.

14. In view of above discussion, I proceed to pass the following order:-

ORDER

- (i) The Criminal appeal is allowed.
- (ii) The impugned order dated 04.02.2021 passed by the learned Additional Sessions Judge, Beed, in Criminal Bail Application No. 54 of 2021, is hereby quashed and set aside.
- (iii) Appellants are already released on ad-interim anticipatory bail vide order dated 04.03.2021 on execution of P.B. and S.B. of Rs.15,000/-. Therefore, the said interim protection is hereby extended during pendency of the trial.
- (iv) They shall not tamper with the prosecution evidence or influence the witnesses.

15. The learned counsel Ms. Sawari M. Patil, was appointed for Respondent No.2 from legal aid, hence, her fees shall be quantified as per rule and be paid by the Legal Aid Sub Committee, High Court, Bench at Aurangabad.

(Y. G. KHOBRAGADE, J.)

JPChavan