

MHAU160038122025



Special Case No.1066 of 2025

The State of Maharashtra

Vs.

Nitin Jaychand Savaji

ORDER BELOW EXH.18

Accused No.1- **Nitin Jaychand Savaji** has filed this application for grant of anticipatory bail under Section **482** of Bhartiya Nagrik Suraksha Sanhita, 2023.

Prosecution case in short is as follows :-

[2] The prosecutrix is belonging to “Hindu Mahar” caste, which falls under the category of Schedule Caste, whereas the applicant/accused is not belonging to the Scheduled Castes or Scheduled Tribes.

[3] On 03.04.2025 the prosecutrix lodged F.I.R. alleging that since her school days she had relation with accused No.1- Nitin Sawaji. However, she was married to some other persons at Buldhana against her wish. Therefore, after staying for some days with the said husband, she came back and started to reside with accused No.1- Nitin. Accused No.3- Pravin is the brother of accused No.1- Nitin.

[4] It is alleged that in the year 2020 on the occasion of Laxmi Pujan in Divali festival accused No.3- Pravin came to the house of the prosecutrix at Omsai Nagar, Ranjangaon. On that night, after accused No.1- Nitin, his mother and other relatives aslept, accused No.3- Pravin forcibly sexual intercourse with the prosecutrix. Accused No.1- Nitin was aware about this fact. However, he did not object accused No.3- Pravin from doing so.

[5] Similarly, in the year 2022 accused No.4 – Raju @ Ravindra had sexual intercourse with the prosecutrix on one or two occasions. However, accused No.1- Nitin did not object accused No.4- Ravindra from doing so. At that time, accused No.1 – Nitin gave abuses to the prosecutrix in the name of her Caste and also beat her. Only because she was belonging to Mahar Caste, he used to abuse and beat her. However, she had no option but to tolerate the ill-treatment given by the accused persons.

[6] On 14.04.2024 the prosecutrix was residing at Omsai Nagar, Waluj. On that day, at about 07:00 p.m. accused No.2 - Laxmikant removed underwear of the prosecutrix and touched his penis on her private part. At that time, accused No.2- Laxmikant asked the prosecutrix to allow him for sexual intercourse, otherwise he will spoil life of her daughter. Having no option, the prosecutrix allowed him to have sexual intercourse with herself. At that time, accused No.2- Laxmikant recorded video shooting of the said sexual act.

[7] On the basis of the above F.I.R. crime vide C.R.No.I-307/2025 came to be registered. Having apprehension of his arrest in this crime, the applicant/accused had filed first bail application bearing Criminal Bail Application No.44/2025. It was rejected by my learned Predecessor on 15.05.2025. The said application was rejected prior to filing of the charge-sheet. Thereafter, the applicant/accused No.1 filed Criminal Appeal No.428 of 2025 before the Hon'ble High Court of Bombay, Bench at Aurangabad. However, by an order dated 08.08.2025 the Hon'ble High Court rejected the said Appeal.

[8] Now, investigation is completed and charge-sheet is filed. Therefore, on the ground of change in circumstances, the applicant/accused No.1 has filed this Third Application for grant of anticipatory bail.

[9] I have heard both the sides and perused the material placed on record. I have perused say of I.O. and say (Exh.28) filed by filed by the prosecutrix.

[10] Learned Advocate for the applicant/accused has submitted that, in her FIR the prosecutrix mentioned one incident which had happened in the year 2020, where accused No.3 – Pravin raped on her. In the second incident which had happened in the year 2022 accused No.4 – Raju @ Ravindra raped on her and in the third incident dated 14.04.2024, accused No.2- Laxmikant raped on her. Considering these

incidents it appears that the prosecutrix has not alleged anything against the present accused. It is only alleged that the present accused did not resist other accused persons when they committed rape on her. Except this nothing was alleged against the present accused. Already, other accused persons of this crime have been granted bail. Investigation of the crime is completed and charge-sheet is filed. Therefore, custodial interrogation of the present accused is not necessary. On these ground he prayed for grant of anticipatory bail.

[11] On the other hand, Ld. APP and the prosecutrix have strongly opposed the application. According to them, there is prima facie material against the present accused. If, he will released on bail he will pressurize the prosecutrix and other witnesses. Nature of the offence is serious. On these ground, they prayed for rejection of the application.

[12] No doubt, I have granted anticipatory bail to accused No.3- Pravin by an order dated 04.08.2025 passed in Criminal Bail Application No.48 of 2025. For the purpose of ready reference I reproduced paragraph No.13 of the said order as follows:-

[13] It is pertinent to note that in this case allegations against accused No.[4] Ravindra are similar to the allegations, which are made against the present applicant. Accused No.[4] Ravindra Ramdas Sawaji @ Raju Sawaji had filed Cri. Bail Application No.46/2025 before my Ld. Predecessor, it was

rejected on 15.05.2025. As against the said order dated 15.05.2025 accused Ramdas Sawaji had preferred Criminal Appeal No.363/2025 before the Hon'ble High Court of Bombay (Bench at Aurangabad). The said appeal came to be allowed and the order dated 15.05.2025 passed by my learned predecessor was set aside and accused Sawaji was granted bail. In the said order the Hon'ble High Court in para No.7 observed thus:-

On going through the FIR, it is seen that allegations are that on many occasions the appellant abused her in the name of her caste. The incident of sexual assault is stated to be of 2022. She could not give date and month of the said incident. Main allegations are against the brothers of accused No.1. From the statement of the son and the daughter of the informant, it is seen that they are not supporting the case of the informant. This court finds substance in the submission that there is no explanation given for delay in lodging the complaint. There is also order passed by this court in favour of accused No.1 granting protection. Entire complaint prima-facie appears to be vague and without sufficient particulars. Certainly there is a doubt as to whether case is made out as alleged above. Considering above, this court finds that appellant deserves protection.

[13] Thus, it is crystal clear that this Court has followed the order of the Hon'ble High Court passed in Criminal Appeal No.363/2025 by which accused No.4 - Ravindra was granted anticipatory bail.

[14] Learned Advocate for the accused further submitted that, no doubt first bail application i.e. Criminal Bail Application No.45 of 2025 was rejected by this Court on 15.05.2025 and thereafter the accused - Nitin filed Criminal Appeal No.428/2025 before the Hon'ble High Court of Bombay (Bench at Aurangabad) and challenged order dated 15.05.2025 passed by this Court. However, the said appeal came to be dismissed by the Hon'ble High Court on 08.08.2025. Only because the said appeal is dismissed by the Hon'ble High Court, right of the accused to file fresh bail application before this Sessions Court does not come to an end. The accused can file fresh bail application before this Court and if the application is rejected by this Court the accused will have remedy to file fresh Criminal Appeal before the Hon'ble High Court against the order of this Court, if the application is rejected. He relied upon the following case laws;

- (1) Laxman Irappa Hatti and another Vs. State of Maharashtra 2004 SCC OnLine Bom 599,
- (2) Kamlesh s/o. Dhirajlal Gandhi Vs. State of Maharashtra & Anr 2007 ALL MR (Cri) 1572,
- (3) Ganesh Raj Vs. State of Rajasthan & Ors, 2005 ALL MR (Cri) Journal 200 dated 1st April, 2005.

[15] Section 18 of the SC/ST Act creates a bar for invoking Section 438 of the Code (Sec.482 of the BNS). However, a duty is cast on the Court to verify the averments in the complaint and to find out whether an offence under the provisions of the SC/ST Act has been prima facie made out.

In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.

[16] It is already pointed out that, first bail application i.e. Criminal Bail Application No.45 of 2025 filed by the accused- Nitin was rejected by this Court on 15.05.2025 and thereafter accused - Nitin filed Criminal Appeal No.428/2025 before the Hon'ble High Court of Bombay (Bench at Aurangabad) and challenged order dated 15.05.2025 passed by this Court. However, the said appeal came to be dismissed by the Hon'ble High Court on 08.08.2025. In para No.12 of the said judgment the Hon'ble High Court observed thus.

12. This Court has gone through the complaint. It is pointed out that this Court has already granted bail to Ravindra Ramdas Sawaji. On the ground of party is also argued by the learned Advocate for the appellants. This Court has, therefore, seen the role of the present appellants. From looking to the FIR it is seen that she has given details of instances. Taking the FIR as it is, it is seen that the appellants have committed offence as alleged. The appellants relied upon the statements of son and daughter of the informant recorded under Section 183 of the Bharatiya Sakshya Adhiniyam, 2023. However, they are still minor and staying with the appellant-accused No.1. There is also statement of the informant recorded under Section 183 clearly implicating these appellants. Though it is

shown that the FIR is lodged after more than a year, this Court finds that when allegations are made attracting the provisions of SC and ST (Prevention of Atrocities) Act, the bar under Section 18 of the Atrocities Act comes into play. Though no allegations are made in the petition filed under the provisions of Domestic Violence Act, this Court finds that presently it is not the case to consider the defences of the accused.

[17] From the above observations made by the Hon'ble High Court, it appears that when the allegations are made out attracting provisions of SC and ST (Preventions of Atrocities) Act, the bar under Sec.18 of the Atrocities Act comes into play. Therefore, considering the bar under Sec.18 of the SC and ST (Preventions of Atrocities) Act, the present application for grant of anticipatory bail is not maintainable and liable to be rejected. I, therefore, pass the following order:-

ORDER

- [1] Application (Exh.18) is rejected.
- [2] Inform the concerned police station accordingly.

Date:- 02.04.2026

(S.B. Bahalkar)
Additional Sessions Judge,
Gangapur.

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