

CNR-MHPA100002942026



Cri. Bail Application No. 80/2026
Order Below Exh.1

Omkar Gunjal & Ors. Vs State of Maharashtra

01. The present application is filed by the applicants Omkar Sudhakar Gunjal, Manik Kondiba Gunjal and Sachin Anil Gunjal under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking anticipatory bail in connection with Crime No.184/2026 registered with Police Station Sonpeth for the offences punishable under Sections 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, Sections 3 (2) (va), 3 (1)(r), 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

02. The prosecution case, in brief, is that on 16.05.2026 at about 8:45 p.m., the informant and his mother had gone to the shop of one Bharat Gunjal. At that time, the informant was talking on his mobile phone. It is alleged that co-accused Shankar Madhukar Gunjal approached the informant, abused him by referring to his caste, questioned him as to why he was speaking loudly on the phone, and thereafter slapped him on his face. The prosecution further alleges that the present applicants also joined in the assault and inflicted kick and fist blows upon the informant. As a result of the assault, the informant fell to the ground and sustained an injury to his head. It is further alleged that when the informant's mother intervened and requested the accused persons not to assault him, co-accused Shankar Madhukar Gunjal and applicant No.3 slapped her. Thereafter, Dolaji and Sagar Bachate, who are the sons of the informant's

brother, arrived at the spot and intervened in the quarrel. Consequently, the informant lodged the present report against the co-accused and the applicants for the aforesaid offences.

03. The applicants submit that they have no connection whatsoever with the alleged incident and have been falsely implicated in the present crime. It is contended that the allegations levelled against them are vague, general and omnibus in nature, thereby rendering their alleged presence at the spot highly doubtful. A plain reading of the First Information Report reveals that no caste-related utterance or insult is attributed to the present applicants. It is further submitted that the informant has not disclosed his caste in the FIR and that the alleged incident did not take place within public view. Therefore, prima facie, the ingredients of the offences punishable under Sections 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, as well as Sections 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are not attracted against the present applicants. Consequently, the statutory bar contained in Sections 18 and 18-A of the said Act is not applicable to the facts of the present case. The applicants are permanent residents of Village Dhamoni, Taluka Sonpeth, and possess movable and immovable properties. They undertake to cooperate with the investigation and abide by any conditions that may be imposed by this Court. On these grounds, the applicants pray that they be granted the relief of anticipatory bail.

04. Heard Mr. J.A.Dige, learned Advocate for the applicants, Mr. P.S.Damre, learned advocate for the informant and Mr. S.B. Pol, learned Additional Public Prosecutor for the State. I have carefully considered the

rival submissions advanced on behalf of both sides. I have also perused the First Information Report, the reply filed by the prosecution, the reply filed on behalf of the informant and the investigation papers made available for my consideration.

05. At the outset, it is necessary to consider whether the bar contained under Sections 18 and 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would operate against the present applicants. The learned advocate for the applicants has relied upon the decision of the Hon'ble Supreme Court in **Prathvi Raj Chauhan Vs. Union of India and Others, AIR Online 2020 SC 225**. In the said decision, the Hon'ble Apex Court has held that where the complaint and the material placed on record do not disclose a prima facie case under the provisions of the Atrocities Act, the embargo created under Sections 18 and 18-A would not come into operation. It is, therefore, incumbent upon the Court to examine the allegations made in the FIR and the material collected during the course of investigation to ascertain whether a prima facie offence under the Atrocities Act is made out against the applicants. Only if such prima facie material is available would the statutory bar prohibit consideration of an application for anticipatory bail. Conversely, if the allegations fail to satisfy the essential ingredients of the offences under the Atrocities Act, the Court would be justified in entertaining the present application. The issue of maintainability of the application, therefore, depends upon the nature of allegations attributed to the applicants and not merely upon the fact that provisions of the Atrocities Act have been invoked in the crime.

06. A careful perusal of the First Information Report reveals that the specific allegation of caste-based abuse is attributed exclusively to co-accused Shankar Madhukar Gunjal. The informant has specifically alleged that it was the said co-accused who abused him by referring to his caste and thereafter assaulted him. So far as the present applicants are concerned, the allegations are confined to assault by means of kick and fist blows. No overt act of caste-related abuse, insult, intimidation or humiliation has been attributed to any of the applicants. There is no allegation that the applicants uttered any caste-related words or made any reference to the caste of the informant at the time of the incident. The FIR also does not disclose that the applicants shared any common intention with the co-accused to intentionally insult or humiliate the informant on the basis of his caste. Thus, on a plain reading of the FIR, the role attributed to the applicants is distinct and separate from that attributed to the co-accused who allegedly uttered the caste-related abuses.

07. The FIR further indicates that the incident appears to have arisen suddenly on account of a dispute regarding the informant allegedly speaking loudly on his mobile phone. At this stage, the material collected during investigation does not prima facie suggest that the applicants acted with any intention to humiliate or intimidate the informant on account of his caste. The allegations against the applicants are general in nature and are restricted to their alleged participation in the physical altercation. For attracting the provisions of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act, there must be prima facie material to show intentional insult, intimidation or abuse on the basis of caste in a place within public view. The allegations contained in the FIR, even if accepted at their face value, do not satisfy these essential ingredients insofar as the present applicants

are concerned. In the absence of any specific allegation indicating caste-based conduct on the part of the applicants, the applicability of the aforesaid provisions becomes doubtful. Similarly, when the foundational ingredients of the offences under Sections 3(1)(r) and 3(1)(s) are not prima facie disclosed against the applicants, invocation of Section 3(2)(va) against them also becomes a matter requiring scrutiny during trial.

08. In view of the nature of allegations and the specific role attributed to the applicants, this Court is of the prima facie opinion that the ingredients constituting offences under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are not made out against the present applicants. Consequently, the statutory bar under Sections 18 and 18-A of the said Act would not be attracted to the facts of the present case and the application for anticipatory bail is maintainable. Coming to the allegations under the Bharatiya Nyaya Sanhita, the role attributed to the applicants is limited to assault by means of kick and fist blows. The investigation papers reveal that the incident arose out of a sudden quarrel and that the injuries allegedly sustained by the informant are already documented in the medical papers. The prosecution has not pointed out any recovery to be effected from the applicants or any material circumstance necessitating their custodial interrogation. The evidence relating to the incident appears to be substantially documentary and testimonial in nature. Therefore, at this stage, custodial interrogation of the applicants does not appear to be indispensable for the purpose of investigation.

09. The applicants are permanent residents of Village Dhamoni, Taluka Sonpeth, and their identity as well as place of residence is not

disputed by the prosecution. Nothing has been brought on record to indicate that they are likely to abscond or evade the course of investigation if protected by an order of anticipatory bail. There is also no material to suggest that the applicants have attempted to influence witnesses or tamper with the prosecution evidence. The apprehension expressed by the prosecution regarding interference with the investigation can be effectively addressed by imposing appropriate conditions while granting pre-arrest bail. It is a settled principle that anticipatory bail is intended to safeguard the liberty of a person against unnecessary arrest where custodial interrogation is not warranted. Having regard to the nature of accusations, the role attributed to the applicants, the absence of specific allegations attracting the provisions of the Atrocities Act against them, and the principles governing grant of anticipatory bail, this Court is satisfied that the applicants have made out a case for grant of pre-arrest protection. Therefore, the application deserves to be allowed on suitable terms and conditions. Hence, the following order is passed.

ORDER

1. Criminal Bail Application No. 80 of 2026 is hereby allowed.
2. In the event of arrest of applicants namely (1) Omkar Sudhakar Gunjal, (2) Manik Kondiba Gunjal and (3) Sachin Anil Gunjal in connection with Crime No.184/2026 registered with Police Station Sonpeth, District Parbhani, for the offences punishable under Sections 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita and Sections 3(2)(va), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rupees

Twenty Five Thousand only) each with one solvent surety in the like amount.

3. The applicants shall attend the concerned Police Station on every Monday between 11.00 am to 01.00 p.m. till filing the charge sheet and shall cooperate with the investigation.
4. The applicants shall not directly or indirectly induce, threaten, promise or allure any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Investigating Agency.
5. The applicants shall not tamper with the prosecution evidence in any manner.
6. The applicants shall furnish their complete residential addresses and mobile numbers to the Investigating Officer and shall intimate any change thereof from time to time.
7. The applicants shall not leave India without prior permission of the Court concerned.
8. Cri. Bail Application No.80/2026 stands disposed of accordingly.

Date: 11.06.2026

(V. M. Sundale)
Additional Sessions Judge,
Ad-hoc Court No.1, Gangakhed