



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 127 OF 2026

APPELLANT : Nikhil s/o Madhukar Thepale,
Aged : 28 years,
Occ. Govt. Service,
R/o Near Sneha Prabha Mangal
Karyalaya, Ward No.3, Ghuggus,
Dist. Chandrapur – 442 505.

V E R S U S

RESPONDENTS : 1. State of Maharashtra,
Through P. S. O. P. S. Ghuggus,
Dist. Chandrapur.

2. XYZ (Victim) in Crime No.215/2025
Registered with PSO PS Ghuggus,
Dist. Chandrapur.

Shri Mahesh Rai, Advocate for appellant.
Shri G. S. Umale, Additional Public Prosecutor for respondent
No.1.
Shri Sanket Joshi, Advocate (Appointed) for respondent No.2.

CORAM: Y. G. KHOBRAGADE, J.
DATE : 29/09/2026.

ORAL JUDGMENT :

1. **Admit.** Heard finally with the consent of the
learned counsel appearing for the respective parties at the stage of
admission.

2. By the present appeal under Section 14-A of the
Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (SC/ST Act), the appellant/accused takes

exception to the order dated 21/02/2026 passed by the learned Special Judge (Atrocities Act) & Additional Sessions Judge, Chandrapur, in Criminal Bail Application (ABA) No.73/2026 thereby declined to enlarge the appellant / accused on anticipatory bail in connection with Crime No.215/2025 registered with Ghuggus Police Station, Dist. Chandrapur on 05/11/2025 for the offences punishable under Sections 77 and 78 of the Bharatiya Nyaya Sanhita, 2023, Sections 66(E) and 67 of the Information of Technology Act, 2000 and Sections 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act, 1989.

3. It is the case of prosecution that the respondent No.2/Informant, a married woman belongs to a member of Scheduled Caste. The appellant/accused and Respondent No.2/victim reside in same locality and know each other. On 04/11/2025, the appellant contacted the respondent No.2 / informant and raised a demand to have physical relations with her but she refused to fulfill the said demand. Thereafter, the appellant/accused forwarded the obscene video through WhatsApp that he had captured to informant's husband and her close relatives. Accordingly, the FIR came to be registered against the Appellant for the offences punishable under Sections 77 and 78 of the Bharatiya Nyaya Sanhita, 2023, Sections 66(E) and 67 of

the Information of Technology Act, 2000 and Sections 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act, 1989.

4. It is a matter of record that, at the first instance the appellant had approached before the learned Trial Court by filing an Application seeking anticipatory bail but it was rejected. Consequently, the appellant had filed Cri. Appeal No. 599 of 2025 before this Court seeking anticipatory bail. However, on 09-02-2026, the appellant withdrew the said appeal with liberty to file fresh application seeking anticipatory bail after the charge sheet is filed.

5. Therefore, the appellant filed Application vide ABA No. 73 of 2026. On 21/02/2026, the learned Special Judge (Atrocities Act) & Additional Sessions Judge, Chandrapur, passed the impugned order in Application (ABA) No.73/2026 and declined to enlarge the appellant on anticipatory bail in connection with Crime No.215/2025 registered with Ghuggus Police Station, hence, this appeal on second time.

6. On perusal of the record, it appears that the present appellant/accused is very much aware about the Informant's caste and due to non-fulfillment of sexual desires of the appellant, he has circulated nude photographs of the

informant through the Social media like WhatsApp to her husband, sister-in-law and other closed relatives.

7. On perusal of contents of FIR, it further reveals that the nude photographs of the informant were also circulated to her sister-in-law through WhatsApp from unknown Cell Number. Further, the informant's sister had also received a call and WhatsApp message from the mobile number of present appellant, thereby passed message that he wanted to talk with the informant. In the FIR, the informant described Cell Numbers of her husband, Sister-in-law, Mother-in-law as well as of the appellant-accused.

8. Needless to say that, the appellant / accused is not a member of SC/ST community, whereas the respondent No.2 / informant is a member of Scheduled Caste community. The appellant has not denied the fact that he is a member of community other than SC, ST and the Informant is a member of SC community.

9. On face of the record, it prima facie appears that the appellant/accused recorded nude videos and photographs of the informant and circulated it through 'WhatsApp' because of non-fulfillment of his sexual desires by the Informant/Respondent No.2.

10. It is a matter of record that on 12/03/2026, this Court passed an order and granted ad-interim anticipatory bail in Crime No.215/2025 on certain terms and conditions. Accordingly, the appellant furnished the surety and bail bond before the Trial Court. The charge-sheet is already filed against the appellant.

11. The learned Counsel appearing for the appellant vehemently canvassed that as per the contents of FIR, the appellant raised demand for sexual relations with the Respondent no. 2/Informant but due to non-fulfillment of the said demand, the appellant circulated her obscene videos/photographs to her husband and close relatives. Therefore, merely circulating the said videos/photographs on WhatsApp, it does not constitute offences under sections 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act, 1989, therefore, no bar is created u/s 18 of the Act to release the appellant on anticipatory bail. However, the learned Trial court has passed the impugned order and rejected the application for anticipatory bail, without considering the facts and law. Hence, prayed for quashing and setting aside the impugned order.

12. Per contra, Shri G. S. Umale, learned APP for respondent No.1 as well as Shri Sanket Joshi, learned appointed counsel for the respondent No.2 strongly opposed the appeal.

13. It is canvassed on behalf of the prosecution that, since the day of registration of Crime No.215/2025, the appellant/accused remained absconding. The appellant allegedly committed an offence pertaining to circulation of objectionable videos/photographs of the victim on Social Media like WhatsApp from his mobile phone. The appellant / accused had knowledge about the victim being a member of SC community, and he circulated the said objectionable pictures/videos of the victim to her husband and other close relatives. So also, those videos/photographs are saved in the appellant's mobile phone, but the said mobile is yet to be seized, which is necessary to prove the allegations against the appellant. Therefore, custodial interrogation of the appellant is required for the seizure of his mobile phone as well as to gather other necessary information. Hence, prayed for dismissal of the appeal.

14. Needless to say that, on 05/11/2025, Crime No.215/2025 was registered with Ghuggus Police Station for the offences punishable under Sections 77 and 78 of the Bharatiya Nyaya Sanhita, 2023, Sections 66(E) and 67 of the Information of Technology Act, 2000 and Sections 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act, 1989 against the appellant / accused. The

record further speaks that, since the date of registration of crime, the appellant / accused remains absconding.

15. In the case of *Lavesh Vrs. State (NCT of Delhi), ALL MR (Cri.) 3300*, wherein it has been held that normally when the accused is absconding and declared as proclaimed offender, there is no question of granting anticipatory bail. In the case in hand, the appellant / accused has remained absconding since the date of registration of crime. Therefore, to my mind, the appellant / accused is not entitled for anticipatory bail.

16. It is submitted that the learned counsel appearing for the appellant canvassed that as per the contents of FIR, the appellant / accused has not abused or insulted the respondent No.2 in her caste in public view, therefore, no essential ingredients are made to constitute an offence u/s 3 of the Atrocities Act, 1989, hence, no bar is created u/s 18 of the Act to enlarge the appellant on anticipatory bail. However, it is submitted that, capturing objectionable videos/photographs of the respondent No.2/informant and circulating the same to the informant's husband, her close relatives and others through social media like WhatsApp by the appellant certainly falls within the ambit of public view within the meaning of Section 3 of the Atrocities Act, 1989.

17. Therefore, I am on view that as per the law laid down in the case of *Kiran Vrs. Rajkumar Jivraj Jain and another, 2025 AIR (SC) 4083*, Section 18 of SC/ST Act creates a bar to enlarge the appellant/accused on anticipatory bail as contemplated under Section 439 of the Code of Criminal Procedure for the offences punishable under 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act, 1989.

18. Needless to mention that on 12/03/2026, this Court passed an order by way ad-interim relief, thereby granted anticipatory bail by observing that the FIR does not attract the provisions of SC/ST Act, hence, Section 18 of the SC/ST Act does not create a bar. However, taking into consideration the material placed on record, it prima facie appears that, there exists necessary ingredients to constitute an offence under Sections 3(1)(w)(ii) and 3(2)(va) of the SC/ST Act because of the circulation of objectionable videos/photographs of the victim on social media like WhatsApp from his mobile, which is within the public view. Therefore, the bar is created under Section 18 of the Act, 1989 to enlarge the appellant on anticipatory bail.

19. On 21/02/2026, the learned Trial Court passed the impugned order and rejected the application on the ground that

the appellant is absconding. Therefore, it prima facie appears that the appellant is himself avoiding his arrest as well as causing hurdles to the Investigating Officer to collect the evidence.

20. Therefore, considering peculiar facts of the present case as well as ratio laid down in cases of *Lavesh and Kiran, cited supra*, I do not find any substantial grounds to interfere with the findings recorded by the learned Trial court in the impugned order. Accordingly, the present appeal is liable to be dismissed, hence, I proceed to pass the following order:

ORDER

1. The appeal is dismissed.
2. The fees of the appointed counsel for respondent No.2 be quantified and paid as per rules.

[JUDGE]

Choulwar