

## Udaya Aliyas Sharavan L Vs State Of Karnataka & Ors

**Court:** Karnataka High Court At Bengaluru

**Date of Decision:** Jan. 30, 2025

**Acts Referred:** Scheduled Castes & Scheduled Tribes (Prevention Of Atrocities) Act, 1989 " Section 3(1)(r)(s), 3(1)(s), 14(A)(2), 18  
Bharatiya Nyaya Sanhita, 2023 " Section 115(2), 126(2), 351(3), 352

**Hon'ble Judges:** V Srishananda, J

**Bench:** Single Bench

**Advocate:** Somashekar T, Channapa Eerappa, Rudrappa P, Shivarajappa

**Final Decision:** Allowed

### Judgement

V Srishananda, J

1. Heard learned counsel for the parties.

2. This appeal is filed by the accused under Section 14(A)(2) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989

(hereinafter referred to as 'the Act of 1989') with following prayer:

To set aside the order dated 19.12.2024, passed in CrI.Misc.No.11263/2024 by LXX Addl. City Civil & Sessions Judge and Spl. Judge,

Bengaluru, and enlarge the appellant on bail in Cr.No.403/2024 dated 04.12.2024, registered by the Yeshwanthpura Police Station for the

offences punishable under Sections 115(2), 126(2), 352 and 351(3) of the BNS, 2023 and 3(1)(r)(s) of the Scheduled Castes & Scheduled

Tribes (Prevention of Atrocities) Act, 1989 pending on the file of the CCH-71 LXX Additional City Civil & Sessions Judge, Bengaluru".

3. The facts in brief which are utmost necessary for disposal of the appeal are as under:

A complaint came to be lodged by respondent No.2 " Mangalamma, W/o. Rudresh aged 33 years with Yeshwanthpura Police Station contending

that the appellant represented himself as an official in a reputed company which is in the business of Event Management. At that juncture, he came to

know about the caste of respondent No.2 and he introduced himself that he belonged to Reddy community. After the acquaintance, the friendship

continued and appellant is said to have sought for a sum of Rs.60,000/- as urgent financial need on account of ill-health of his mother and she has paid

the same through phone pe. A sum of Rs.1,90,000/- was also paid over a period of time by respondent No.2 to the appellant which fact is known to

her co-employees namely Savitha, Seetha, Sumithra, Mamatha and Anand.

4. When the appellant failed to repay the same, there were demands. When the matter stood thus, the appellant said to have told the respondent No.2

to come near Dharmarayaswamy Temple in Yeshwanthpura on 30.11.2024, where he would arrange the money to be repaid.

5. Believing the words of the appellant, respondent No.2 proceeded to the said spot at about 7.30 p.m. The appellant was present there and he told the

respondent No.2 that he would not pay any money and started assaulting the respondent No.2, pulled her veil and also took her mobile phone and

threw away on the ground. It is also contended by respondent No.2 that in the said quarrel, the appellant said to have hurled the words

and also abused her in

filthy language.

6. Based on the said complaint, Yeshwanthpura Police registered a case in Cr.No.403/2024 for the offences punishable under Sections 115(2), 126(2),

352 and 351(3) of the BNS, 2023 and for the offence punishable under Sections 3(1)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989').

7. The appellant approached the learned Special Judge with a request for grant of anticipatory bail which was opposed by the prosecution and defacto

complainant. Learned Judge after hearing the parties, noted that prima facie materials available on record would act as a bar in entertaining the

anticipatory bail petition in view of Section 18 of the Act of 1989 and rejected the request of the appellant. Thereafter, the appellant is before this

Court.

8. Learned counsel for the appellant would contend that even if the entire contents of the complaint is taken as true for the sake of arguments, the

material on record would not depict any material whatsoever, much less, prima facie materials so as to invoke the bar under Section 18 of the Act of

1989 and sought for allowing the appeal.

9. Per contra, Sri. Rudrappa, learned counsel for respondent No.2 and learned HCGP opposed the bail grounds by reiterating the contents urged in the

objection statement.

10. In the light of the rival contentions of the parties, this Court perused the material on record meticulously. On careful reading of the complaint

averments, it is to be noted that the offences that has been alleged which would act as a bar under Section 18 of the Act of 1989, is Section 3(1)(s) of

the said Act.

11. For ready reference, Section 3(1)(s) is culled out hereunder:

3. Punishments for offences atrocities. Ã¢â¬â

3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,Ã¢â¬â

(a) to (r) xxx

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

12. The complaint averments would not depict that there were others who had witnessed the incident as admittedly, it is the respondent No.2 alone

who met the appellant near the Dharmarayaswamy Temple.

13. Further, in the complaint averments also, there is no caste name taken out by the appellant and all that it has been found from the complaint

averments is that Ã¢â¬â“ \*\*\* e Ã¢â¬â.

These words prima facie would not act as a bar under Section 18 of the Act of 1989, as causing insult in the public view by taking out the caste name

is what is the essence of the offence under Section 3(1)(s) of the said Act. Therefore, the embargo in entertaining the anticipatory bail request made

by the appellant would not be available in the case on hand.

14. Having said thus, the other offences are not so grave enough so as to deny the anticipatory bail request. The material on record would also show

that the investigation is crippled for want of presence of the appellant. Therefore, ends of justice would be met if the appellant is directed to join the

investigation and undergo custodial interrogation for a limited period and thereafter be let on bail.

15. Accordingly, without expressing any further opinion on the merits of the matter, following order is passed:

Order

i) The appeal is allowed.

ii) The appellant is directed to join the investigation on 17.02.2025, by appearing before the Investigating Officer in Yeshwanthpura Police Station at 10

a.m. Investigation Officer is at liberty to take him to custody if need be and complete the custodial investigation on the same day before 4.00 p.m. and

thereafter enlarge the appellant on bail on getting a bond executed in a sum of Rs.50,000/- with one surety for the like sum to his satisfaction.

iii) The appellant shall cooperate with the investigation in all respects.

iv) The appellant shall attend the Court regularly.

v) The appellant shall mark his attendance every third Sunday between 10.00 a.m. and 2.00 p.m. before the Investigating Officer, till the charge sheet

is filed.

vi) The appellant shall not threaten the prosecution witnesses in any manner.

vii) The appellant shall not leave the Bengaluru Urban District jurisdiction, without prior permission.

Ordered accordingly.