

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 1200 Of 2015.

SURENDRA S/O BHAGIRATHJI TOSHNIWAL & ORS.
VERSUS
THE STATE Of MAHARASHTRA.

Appearance =>

Mr. Swapnil Rathi, Advocate for the Applicants.

Mr. Santosh S. Jadhavar, Advocate for the original Complainant.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra / Respondent.

CORAM : **VM. Deshpande, J.**

DATE : **23rd March, 2015.**

Per Court :-

Present Criminal Application is filed by the applicants for grant of anticipatory bail, since they are apprehending their arrest in connection with CR No. 11/2015 registered with Police Station, Sailu, Dist. Parbhani, for the offences punishable under Section.s. 143, 363, 365, 307, 354, 341, 323, 504 of the Indian Penal Code, 1860 and under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) 1989 and under Section 3 read with 25 of Arms Act.

[2] Heard Mr. Swapnil Rathi, learned counsel for the Applicants, Mr. Santosh S. Jadhavar, learned counsel for the original

Complainant and Mr. A.S. Shinde, learned Additional Public Prosecutor for the State of Maharashtra / Respondent.

[3] Objection is raised on behalf of learned Additional Public Prosecutor and Mr. Santosh S. Jadhavar, learned counsel for the first informant that present Application is not maintainable in view of Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) 1989.

[4] In view of the said submission, the court is required to see as to whether the applicants are victim of false implication or at least prima facie it can be demonstrated that the allegations made against the present applicants cannot stand to the scrutiny of law.

[5] Genesis of the present litigation goes back to the First Information Report lodged by one Kamlabai Indrajit Lokhande against one Manjit Nasibchand Mahi, Branch Manager, State Bank of Hyderabad. Said First Information Report was lodged for the offences punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) 1989, apart from other offences.

[6] Mr. Manjit Mahi, Branch Manager approached to this court vide Criminal Application No.1719 Of 2014 for quashing the First Information Report lodged by Kamlabai Indrajit Lokhande against him. The Division Bench of this court of which I was one of the party, vide its order dated 2nd July, 2014 admitted the Criminal Application and interim protection was granted to Manjit Nasibchand Mahi.

[7] Be that as it may be, present First Information Report is lodged by one Bhimrao Ramrao Bhalerao against present applicants alleging that his wife Mangalabai is one of the witness to the incident, culminating into filing of the First Information Report against Branch Manager - Manjit Nasibchand Mahi by Kamlabai Indrajit Lokhande. According to the First Information Report, present applicants, who are customers of the State Bank of Hyderabad and, therefore, they pressurized for withdrawal of First Information Report filed against the Branch Manager.

[8] I have gone through the statement of one Vishnu which clearly shows that, Mangalbai Bhalerao, who according to the prosecution was pressurized to withdraw the present prosecution. From his statement it is clear that Mangalabai did not disclose the name of present applicant to Vishnu.

Further statement of Manjit Mahi, Branch Manager is also perused which clearly shows that, present applicants are not having any special kind of relationship with him.

[9] Further the First Information Report is not lodged by Mangalabai Bhalerao but it was lodged by Kamlabai Indrajit Lokhande. In that view of the matter, the applicants have made out a prima facie case in their favour and in my considered view, Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) 1989 will not come in their way. In that view of the matter, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) In the event of arrest, applicant No.1 – Surendra Bhagirathji Toshniwal, applicant No.2 – Sagar Surendra Toshniwal and applicant No.3 – Tukaram Dadarao Mundhe shall be released on anticipatory bail on they executing PR. Bond of Rs. 5000/- [Rs. Five Thousand] each with one solvent surety in the like amount, in connection with CR No.11/2015 registered with Police Station, Sailu, Dist. Parbhani, for the offences punishable under Section.s. 143, 363, 365, 307, 354, 341, 323, 504 of the Indian Penal Code, 1860 and under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) 1989 and under Section 3 read with 25 of Arms Act.

(iii) The applicants shall attend Police Station, Sailu, Dist. Parbhani once in a week, preferably on every Sunday between 3.00 p.m. to 4.00 p.m.

(iv) Applicants shall also attend Police Station, Sailu, Dist. Parbhani as and when required by the Investigating Officer on getting the written intimation from the Investigating Officer.

(v) The applicants shall not in any way tamper with the prosecution witnesses nor threaten either to the first informant or his wife.

(vi) With this Criminal Application is disposed of.

(V.M. Deshpande, J.)