

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1792 OF 2015

Baban s/o Pandit Kaspate & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

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Mr. S.J.Salunke, Advocate for Applicants.

Mrs. V.A.Shinde, A.P.P. for R – 1 State.

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CORAM : V.M.DESHPANDE, J.

DATE : 24th APRIL, 2015

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PER COURT :

1. Applicants are apprehending their arrest in connection with Crime No. 20/2015 registered at police station Ambajogai (Rural), Dist. Beed for the offences punishable u/s 326,324,147,148,149,323,504,506 of the Indian Penal Code and u/s 3 (2) (v), 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act [for short, 'Atrocity Act'].

2. Heard Mr. S.J.Salunke, learned counsel for the applicants and Mrs. V.A.Shinde, learned A.P.P. for respondent No. 1 – State.

3. Date of incident is 03/03/2015. F.I.R. is lodged on 06/03/2015. Thus, there is delay of three days in filing F.I.R. Said delay is not explained. Satyabhamabai is the first informant. Time of the occurrence is 5.00 p.m. According to F.I.R., on the date and time of the occurrence, present applicants along with others used abusive language against first informant in the name of her caste and she was assaulted by iron rod. F.I.R. is completely silent that any third person from the society was present when the incident has occurred. Further, specific allegations about using the abusive words in the name of caste and assaulting first informant by means of iron rod is against Vilas. Vilas is arrested and his application for regular bail is already rejected.

The nature of the accusations against the present applicants is most general in nature. Further, in the F.I.R., first informant Satyabhamabai has not stated that she was given fist blows by the applicants. However, learned A.P.P. submitted that in the statement of Radhabai, who is the daughter of first informant, has stated that applicant No. 2 Hirabai and applicant No. 3 Sudamati have given fist blows.

4. Thus, looking to the fact that there are no specific allegations against the present applicants in respect of the utterances of abusive words in the name of caste and about the assault, custodial presence of the present applicants is not at all necessary and *prima facie* it appears that the applicants can not be booked for the offence under the Atrocity Act.

5. Hence, I pass the following order :

(i) Present Criminal Application is hereby allowed.

(ii) In the event of arrest, in connection with Crime No. 20/2015 registered at police station Ambajogai (Rural), Dist. Beed for the offences punishable u/s 326,324,147,148,149,323,504,506 of the Indian Penal Code and u/s 3 (2) (v), 3 (1) (x) of the Atrocity Act, applicant No. 1 Baban s/o Pandit Kaspate, applicant No. 2 Hirabai w/o Guruba Pandhavale and applicant No. 3 Sudamati w/o Kerba Kukar be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount by each of them.

(iii) Present applicants shall not tamper with the prosecution witnesses.

(iv) Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]