

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

CRIMINAL APPLICATION NO. 1816 OF 2015

Babasaheb Bhanudas Thorve

.... APPLICANT

V E R S U S

The State of Maharashtra

.... RESPONDENT

.....

Mr. S.M.Awachar, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 21st APRIL, 2015

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PER COURT :

1. By the present application, applicant is seeking anticipatory bail, since he is apprehending his arrest in connection with Crime No. 34/2015 registered with Shevgaon police station, Dist. Ahmednagar for the offences punishable u/s 324,323,506 read with 34 of the Indian Penal Code, u/s 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989 and u/s 7 (1) (d) of the Protection of Civil Rights Act, 1955.

2. Heard Mr. S.M.Awachar, learned counsel for the applicant and Mr. A.S.Shinde, learned A.P.P. for respondent – State.

3. First Information Report [for short, ' F.I.R.'] is lodged by Madan Shirsath on 26/01/2015. As per the accusations made in the F.I.R., first informant and his brother Ashok were proceeding from the street in front of the house of the present applicant. That time, they were talking amongst each other loudly. F.I.R. further alleges that, thereon present applicant stepped out side his house and questioned as to why they are speaking loudly and at that time he used abusive language in the name of caste in respect of the first informant. F.I.R. further states that, at that time, he also made assault by means of stick on the head of first informant.

4. Learned A.P.P. has pointed out the statements recorded by the Investigating Officer during the course of investigation. The statements show that all the statements are of the family members of the first informant. Further, F.I.R. is totally silent that when the present applicant used abusive language in the name of caste of first informant and those were heard by any person from public. Further, supplementary statement of first informant and the statement of Ashok, who was accompanying at the relevant time with Madan Shirsath, is totally silent on that point. Learned A.P.P. submits that the incident has happened on the public road. The requirement is that the abusive words in the name of caste should be used within a 'public view'. Absence of any material shows that no person from the public was present at the relevant time. *Prima facie*, it shows that the incident has not occurred within a 'public view'.

5. Learned A.P.P. has pointed out injury certificate of first informant, which undoubtedly shows Contused Lacerated Wound on occipital region of the first informant. Looking to the nature of the injuries for which applicant is booked, the injury is also not grievous. In that view of the matter, applicant can be protected by the anticipatory bail.

6. Hence, I pass the following order :

(i) Present Criminal Application is hereby allowed.

(ii) In the event of arrest, in connection with Crime No. 34/2015 registered with Shevgaon police station, Dist. Ahmednagar for the offences punishable u/s 324,323,506 read with 34 of the Indian Penal Code, u/s 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989 and u/s 7 (1) (d) of the Protection of Civil Rights Act, 1955, applicant Babasaheb Bhanudas Thorve be released on anticipatory bail on he executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with one solvent surety of like amount.

(iii) Applicant shall attend Shevgaon police station, Dist. Ahmednagar once a week preferably on every Sunday between 10.00 a.m. and 11.00 a.m. till the charge sheet is filed.

(iv) Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 1816.2015