

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

CRIMINAL APPLICATION NO.3991 OF 2015

1. Madan s/o Pralhadrao Kadam,
Age: 49 years, Occ: Service as
Block Development Officer,
Panchayat Samiti, Jintur,
R/o. Jijau Colony, Jintur Road,
Parbhani, Taluka & Dist. Parbhani.
2. Suresh s/o Narayanrao Kashikar,
Age: 49 years, Occ: Service as
Desk Officer, Panchayat Samiti,
Jintur, R/o. Saraswati Nagar,
Parbhani, Taluka & Dist. Parbhani. ...Applicants

versus

1. The State of Maharashtra,
through the Assistant Police
Inspector, Jintur Police Station,
Jintur, Tal. Jintur, Dist. Parbhani.
2. The Superintendent of Police,
Parbhani, Dist. Parbhani. ...Respondents

.....
Mr. Rajendra S. Deshmukh, Advocate for applicant
Mrs. B.B. Gunjal, A.P.P. for respondent/State
.....

CORAM : N.W. SAMBRE, J.

DATE : 19th AUGUST, 2015

ORAL ORDER :

The applicants, who are public servants, are seeking pre-arrest bail for an offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, pursuant to the First Information Report dated 08/07/2015

for the incident dated 04/07/2015.

2. Heard Mr. Deshmukh, learned Counsel for the applicants and learned A.P.P. for the State.

3. Admittedly, the applicants herein do not belong to Scheduled Tribes which appears to be a cause for invoking the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Mr. Deshmukh, learned Counsel made three fold contentions; (a) that the incident in question took place on 04/07/2015, whereas the complaint about the same was lodged on 08/07/2015 and there is no explanation for delay caused in lodging F.I.R. (b) applicant No. 2 at the relevant time was not present on the spot of incident and was attending the training programme conducted for the officials who were authorized to work as returning officer in the election. He has produced certificate issued by the Tahsildar, Jintur on 24/07/2015 so as to demonstrate that applicant No. 2 on 04/07/2015 between 11-00 a.m. to 2-00 p.m. was present at Tahsil office, Jintur for receiving training in the matter of conduct of election, (c) the complainant is in habit of filing false cases against public officers and has invited attention of this Court to the contents of

Criminal Misc. Application No. 407 of 2010 filed in the Court of Sessions Judge, Parbhani by one Manjubhau Dukare who was working as Gramsevak with village panchayat and who was also required to suffer similar accusation at the behest of the complainant herein.

5. Learned A.P.P. has opposed the application on the ground that eye witnesses in their statement have narrated about happening of the incident in question and there is *prima facie* evidence available against the applicants/accused. According to learned A.P.P., the application is liable to be rejected.

6. Perused the pleadings and case diary produced.

The applicants are public officers.

7. It is required to be noted here that for delayed lodging of F.I.R., no explanation whatsoever is furnished by the complainant. Apart from above, the claim of the complainant was he belongs to Andh Scheduled Tribes and as such, by uttering in public view words which according to him were insulting, coloured with caste based accusation offence alleged to have been committed. Upon perusal of record, it is required to be noted that the incident in question has

occurred in the chamber of applicant No.1. The above referred facts are noticed keeping in mind that the contents of the F.I.R. are taken to be correct to its face value, still in my opinion, no *prima facie* offence could be noticed. Apart from above, the certificate issued by the Tahsildar, Jintur dated 24/07/2015 certifying the presence of applicant NO.2 on the date and time of the incident in his offence for training is also required to be given appropriate weightage.

8. In view of above, in my opinion, present one is fit case to grant pre-arrest bail. Hence, the following order:-

The application preferred by the applicants stand allowed.

In the event of arrest in Crime No. 3078/2015 registered with Jintur Police Station, Taluka Jintur, District Parbhani for the offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicants be released upon furnishing personal bond of Rs.10,000/- (Rs. Ten Thousand) each with solvent surety in the like amount and shall attend the concerned police station as and when called by the Investigating Agency.

[N.W. SAMBRE, J.]