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

CRIMINAL APPLICATION NO.5086 OF 2015

Rajebhau s/o Tukaram Thorat
and ors.

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr N.B. Khandare, Advocate for applicants;
Mr N.T. Bhagat, A.P.P. for respondent;
Mr S.S. Jadhavar, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 14th October, 2015

ORAL ORDER :

Mr Khandare, learned Counsel appearing on behalf of the applicants does not press the present application for and on behalf of applicant no.1 Rajebhau s/o Tukaram Thorat. As such, the present application, to his extent, stands dismissed as not pressed.

2. By the instant application under section 438 of the Code of Criminal Procedure, the applicants seek their enlargement on bail, in the event of their arrest, in connection with C.R. No.140 of 2015, registered with Jintur police station, Jintur, Dist. Parbhani, for offences punishable under sections 143, 147, 148, 149, 324, 323, 326 of the Indian Penal Code and sections 3 (2) (5) and 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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2. The alleged incident appears to have taken place on 6th August, 2015 at 6.00 p.m., for which the first information report came to be lodged on the next day at 1.35 a.m.

3. Upon perusal of the first information report, Mr Khandare, learned Counsel appearing on behalf of the applicants would urge that there are sweeping allegations against the applicants in relation to the offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He would submit that, except the role attributed to applicant no.1 Rajebhau, in relation to assaulting one Digambar, rest of the applicants are falsely implicated in the crime in question, in the background of the election to the Village Panchayat. He would urge that the nature of the offences with which the applicants herein, are charged being not serious in nature, they be ordered to be released on bail, in the event of their arrest. He would further urge that perusal of the first information report depicts that there are no insulting utterances in relation to the caste of the complainant by each of the individual and as such, relying upon the judgment of the Apex Court, in the matter of **Vilas Pandurang Pawar & anr. vs. State of Maharashtra & ors.**, reported in **(2012) 8 SCC 795**, he would urge that there is no statutory bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, to grant bail under section 438 of the Code of Criminal Procedure.

4. Heard learned Addl. Public Prosecutor, who is assisted by learned

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Counsel Mr Jadhavar on behalf of the complainant. Learned Addl. Public Prosecutor would urge that perusal of the first information report reflects that there is *prima facie* involvement of the applicants in commission of the crime in question. According to him, because of the alleged crime, there is law and order problem in the village and in view of availability of appropriate evidence against the applicants, it will be in the fitness of the things to reject the present application.

5. With the assistance of the learned Addl. Public Prosecutor, I have perused the contents of the first information report and the investigation papers. The medical evidence produced on record pertains to the serious injuries sustained by Digambar, who was assaulted by applicant no.1 Rajebhau, whose application is not pressed.

6. So far as applicants no.2 to 8 are concerned, there are sweeping allegations as regards use of stick and giving fist blows in the crime in question.

7. Apart from above, it is required to be noted that while scanning the contents of the first information report carefully, so as to ascertain whether an offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out, it is required to be noted that there are no insulting utterances in relation to the caste of the complainant, as what is stated is, "tribal residing in forest have you become more insolent?", in my opinion, does not *prima facie* constitute offence

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under the said Act. Apart therefrom, the allegations as are made in the first information report, are given colour of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, are not attributed to have been uttered by the applicants herein individually.

8. In view of above, in my opinion, it will be appropriate to grant protection to applicants no.2 to 8. I, therefore, pass the following order :-

In the event of arrest of the applicants No.2 to 8, namely, (2) Daulat s/o Tukaram Thorat, (3) Balasaheb s/o Dattarao Kharat, (4) Pintu s/o Dattarao Kharat, (5) Sudhakar s/o Bhagwan Satpute, (6) Sunil s/o Vijay Satpute, (7) Vijay s/o Bhagwan Satpute and (8) Namdeo s/o Maroti Mirase they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicants shall attend the concerned police station initially for three days, between 10.00 a.m. and 11.00 a.m. and thereafter as and when called by the Investigating Officer.

Till filing of the charge-sheet, the applicants shall keep themselves away from the jurisdiction of the concerned police station, but for compliance of this order.

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Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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