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

CRIMINAL APPLICATION NO.5774 OF 2015

Kalyan s/o Balu @ Balasaheb
Murkute

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr S.K. Chavan, Advocate for applicant;
Mr V.H. Dighe, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.
DATE : 22nd December, 2015

ORAL ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.263 of 2015, registered with police station, Gangakhed, for offences punishable under sections 323, 354-B of the Indian Penal Code and section 3 (1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The applicant, who is working in Defence, while on vacation, visited the native place and upon a complaint lodged by one Kevalbai, aforementioned offence came to be registered against him on 26th September, 2015, for the incident which took place on 25th September, 2015.

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3. Learned Counsel appearing on behalf of the applicant submits that the first information report would narrate a improbable story and according to him, the incident is in relation to the allotment of grains on fair price to the complainant from the ration shop, which was owned and managed by the brother of the applicant.

4. According to the learned Counsel, the ration shop is neither owned by the brother of the applicant nor the incident as such, has taken place. He would submit that the applicant being a public servant, in view of village politics, he has been falsely implicated in the crime.

5. Learned Addl. Public Prosecutor, while opposing the application, would submit that the bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act will be attracted and as such, the application is liable to be rejected. He would then urge that the medical evidence, statement recorded under section 164 of the Code of Criminal Procedure and the statements of the witnesses speak a volume about involvement of the applicant in the crime in question.

6. At the outset, having perused the first information report carefully, the probable story as is narrated, appears to be untrustworthy, leave apart the fact that the applicant being a public servant is not likely to run away from the prosecution. The medical evidence collected during the investigation *prima facie* would not match with that of the allegations made against the applicant. As such, false implication of the applicant cannot be

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ruled out. Thus, the bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not attract in the present matter.

7. In view of above, in my opinion, it will be appropriate to release the applicant on bail. I, therefore, pass the following order :-

In the event of arrest of the applicant, in connection with C.R. No.263 of 2015, registered with police station, Gangakhed, for offences punishable under sections 323, 354-B of the Indian Penal Code and section 3 (1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he be released on bail, on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially on 28th and 29th December, 2015, between 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj