

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5870 OF 2015

PRAKASH DADARAO GAIKWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant :Mr. Angad L. Kanade.

APP for Respondent : Mr. S. M. Ganachari.

...

AND

CRIMINAL APPLICATION NO. 5871 OF 2015

AKASH S/O PRAKASH GAIKWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant :Mr. Angad L. Kanade.

APP for Respondent : Mr. S. M. Ganachari.

...

CORAM : **INDIRA K. JAIN, J.**

DATE : 04th December, 2015.

ORAL ORDER:

. These two applications are for pre-arrest bail in Crime
No.A-22 of 2015 registered at Pimpalner Police Station, District Beed
for the offences punishable under Sections 302, 143, 147, 148, 149,

326 and 449 of the Indian Penal Code and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2 Mr. A. L. Kanade, learned counsel for Applicants upon instructions seeks permission to withdraw Criminal Application No.5870 of 2015 in respect of Applicant No.1 Prakash Dadarao Gaikwad.

3 Being withdrawn Criminal Application No.5870 of 2015 to the extent of Applicant No.1 Prakash Dadarao Gaikwad stands disposed of.

4 Heard Mr. A. L. Kanade, learned counsel for Applicants and Mr. S. M. Ganachari, learned APP for State. Perused papers of investigation.

5 On 5th May, 2015 informant Lahu Athwale lodged report against the Applicants and others alleging therein that on 4th May, 2015 in the evening Applicants and other 21 persons encircled and assaulted his son Ganesh with sticks and stones. Lahu intervened to rescue Ganesh and that time those persons also assaulted Lahu.

6 It is the contention of Applicants that in the year 2014 Prakash has given evidence in a case against the Complainant and just to wreck vengeance entire family has been roped in a false case. Learned counsel submits that no specific role is attributed to Applicants and allegations in FIR be looked into in a view of previous enmity between Complainant and Accused. Learned counsel submits that Applicants were granted interim protection by the Sessions Court but on merits their applications came to be rejected. In this background learned counsel prays to grant protection to the Applicants.

7 Per contra learned APP vehemently contended that specific role has been attributed to each of the Applicants in the statement recorded under Section 164 of the Code of Criminal Procedure on 4th June, 2015. It is submitted that there is *prima-facie* case against the Applicants. The statements of eye witnesses recorded during investigation support the prosecution. Postmortem report shows as many as 15 *ante mortem* injuries on the body of Ganesh. Cause of death as opined by Medical Officer, District Hospital, Beed was due to cerebral hemorrhage with multiple trauma. Learned APP submitted that offences are serious. There is ample material on record against the Applicants and prays to reject the

applications.

8 On perusal of statement of Complainant under Section 164 of the Code of Criminal Procedure, statements of eyes witnesses, postmortem report and injury certificate of Complainant this Court finds *prima-facie* involvement of Applicants in the commission of murder. Charge-sheet shows that these three Applicants are absconding and charge-sheet has been filed against them under Section 299 of the Code of Criminal Procedure.

9 Considering the nature of offences, severity of punishment and *modus operandi* of Applicants this Court is not inclined to grant protection. Hence the following order –

ORDER

Criminal Application Nos.5870 and 5871 of 2015 are rejected.

[INDIRA K. JAIN, J.]