

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

CRIMINAL APPLICATION NO. 5998 OF 2015

ABDUL JAMADAR SHAIKH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sachin S. Deshmukh.
APP for Respondent : Mr. A. R. Kale.
...

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

DATE : 04th December, 2015.

ORAL ORDER:

. Here is an application for pre-arrest bail in Crime No.II-12 of 2015 registered at Ashvi Police Station, District Ahmednagar for the offences punishable under Sections 323, 504 and 506 of the Indian Penal Code and Section 3(1)(X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2 Heard Mr. Sachin S. Deshmukh, learned counsel for Applicants and Mr. A. R. Kale, learned APP for State. Perused papers of investigation.

3 FIR was lodged by Dilip Daulat Mantode R/o. Shiblapur, Taluka Sangamner, District Ahmednagar. According to Complainant on 10th September, 2015 at around 02:30 pm when he was parking his motorcycle on the ground of Buddha Vihar Applicants abused him on caste, manhandled him and threatened to kill him. On the basis of said report above said crime came to be registered against Applicants.

4 Applicants submitted that they are innocent. There are two political groups in the village. Complainant belongs to opposite group. In Gram Panchayat election the group of Applicants secured 8 seats against 11 whereas the group to which Complainant belongs could secure only 3 seats. It is alleged that due to strong political rivalry and to counterblast the complaint lodged by Applicants group they have been falsely implicated in the present crime.

5 Per contra learned APP submitted that during investigation statements of five eye witnesses have been recorded. They have narrated the abuses hurled by Applicants to the Complainant on caste and in view of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act application cannot be entertained.

6 It can be seen from the record that there is strong political rivalry between the group of Applicants and the group to which Complainant belongs. On 10th September, 2015 election of Sarpanch and Upa-Sarpanch was to be held and Applicant No.2 Jahur Shaikh was elected as Upa-Sarpanch of Gram Panchayat, Shiblapur. Most of the witnesses examined are either from the community of Complainant or from the other group.

7 In this premise and particularly considering the strong political rivalry between the two groups *prima facie* involvement of the Applicants appears to be doubtful. As such bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) would not attract. Custodial interrogation of Applicants is not necessary. This Court is thus inclined to allow the application. Hence the following order –

ORDER

- I. Criminal Application No.5998 of 2015 is allowed.
- II. Interim protection granted vide order dated 3rd November, 2015 is confirmed.

- III. In the event of arrest of Applicants in Crime No.II-12 of 2015 registered at Ashvi Police Station, District Ahmednagar for the offences punishable under Sections 323, 504 and 506 of the Indian Penal Code and Section 3(1)(X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on bail on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each.
- IV. They shall not tamper with the prosecution evidence and shall make themselves available as and when required by the Investigating Agency.

[INDIRA K. JAIN, J.]

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