

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

CRIMINAL APPLICATION NO. 5999 OF 2015

1. Prakash S/o Ramchandra Shinde,
Age 50 years, Occu. Agri.,
2. Bhanudas S/o Ramchandra Shinde,
Age 53 years, Occu. Agri.,
3. Ramesh S/o Ramchandra Shinde,
Age 48 years, Occu. Service.

All R/o. Shiblapur, Tq. Sangamner,
Dist. Ahmednagar.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr Sachin S. Deshmukh, Advocate and Mr M. S. Shaikh, Advocate
for applicants

Mr S. M. Ganachari, APP for respondent/State

.....

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

DATE : **4TH DECEMBER, 2015.**

PER COURT:

. Here is an application for pre-arrest bail in Crime
No. II-13/2015 registered at Ashvi Police Station, Dist. Ahmednagar
for the offences punishable under Sections 3(i)(x) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard learned counsel for parties. Perused papers of investigation.

3. FIR was lodged on 10.09.2015 by Raghunath Somaji Mantode, president of Shiblapur Tq. Sangamner, Dist. Ahmednagar.

4. It appears from FIR that on 10.09.2015 at around 7:00 and 7:30 hrs. Manohar Bapu Mantode had been to the house of complainant and asked him that he did not repay loan for which he (Manohar) stood guarantor and since loan was not paid, society was to auction his land. Raghunath told Manohar that he had repaid the entire loan and enquired from him the source of such information. On that, Manohar informed him that applicant No. 1 Prakash S/o Ramchandra Shinde told him about the auction of his land.

5. Thereafter Raghunath and Manohar had been to Prakash. They enquired from him the reason for giving the incorrect information. That time applicant Prakash without responding to their query left the place saying that he would come back.

6. Incident occurred between 10:00 and 10:30 am. Applicant No. 1 was having a flour mill. Complainant had been to his flour mill. That time Pramod Satish Bondre, Raosaheb Rambhau Nagare, Ganga Bhaga Bondre and Narayan Karbhari Bondre were present. In their presence complainant again asked Prakash about the reason for giving false information to Manohar. It is alleged that on that Prakash abused the complainant in the name of caste. Applicant Nos. 2 and 3 real brothers of applicant No. 1 also came there. They too abused the complainant on caste.

7. Learned counsel for applicants vehemently contended that allegations in FIR are totally false and concocted. FIR was lodged in the wake of Grampanchayat election. It is submitted that complainant Raghunath belongs to the opposite political group. His brother Dilip also lodged a false complaint against the applicants with an intention to put them behind bars and thereby deprive them from participating in election of Sarpanch and Upsarpanch which was to be held on 10.09.2015. It is further submitted that in the election eight seats were secured by the group of applicants whereas opposite group to which complainant belongs secured only three seats. Considering the animosity learned counsel submitted that *prima facie* involvement of applicants is doubtful. So far as

applicant No. 3 Ramesh is concerned, it is submitted that he is serving at Pravara Water Supply Corporation and on the relevant date he was present in the office and not at the place of occurrence as alleged in FIR.

8. Per contra learned APP submitted that statements of witnesses named in FIR have been recorded. All the witnesses support the allegations in FIR. Since specific abuses in the name of caste have been narrated in FIR and in the statements of witnesses learned APP submits that bar under Section 18 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act would be attracted and prays to reject the application.

9. On perusal of record it appears on 10.09.2015 an election of Sarpanch and Upsarpanch was held in the village. There was a strong political rivalry between group of complainant and group of applicants. It is significant to note that incident was reported after Sarpanch and Upsarpanch from the group of applicants were elected though incident occurred before the election.

10. So far as applicant No. 3 is concerned copy of certificate placed on record shows that he was present in the office on 10.09.2015 for the entire day.

11. In the above background, this Court finds *prima facie* involvement of applicants in the alleged commission of crime as doubtful. Therefore bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not be attracted. Application deserves to be allowed. Hence the following order.

ORDER

- (i) Criminal Application No. 5999 of 2015 is allowed.
- (ii) Interim protection granted vide order dt. 03.11.2015 is confirmed.
- (iii) In the event of arrest of applicants Prakash S/o Ramchandra Shinde, Bhanudas S/o Ramchandra Shinde and Ramesh S/o Ramchandra Shinde in Crime No. II-13/2015 registered at Ashvi Police Station, Dist. Ahmednagar for the offences punishable under Sections 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they be released on their furnishing PR and SB of Rs. 15,000/- each.

- (iv) They shall not tamper with the prosecution evidence.
- (v) They shall attend the concerned police station daily initially for a period of one week between 10:00 am and 11:00 am and thereafter as and when required by the Investigating Agency.
- (vi) They shall cooperate with the Investigating Agency failure to which prosecution would be at liberty to move an application for cancellation of protection.

[INDIRA K. JAIN, J.]

sgp