

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

CRIMINAL APPLICATION NO. 6029 OF 2015

1. Yamaji Kachru Vane,
Age : 55 years, Occu. Agri,
R/o. Makranpur, Tq. Kannad,
Dist. Aurangabad.

2. Popat Khandu Londhe,
Age : 54 years, Occu. Agri.,
R/o. Makranpur, Tq. Kannad,
Dist. Aurangabad.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr N. S. Ghanekar, Advocate for applicants
Mr U. S. Mote, APP for respondent/State
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CORAM : **INDIRA K. JAIN, J.**
DATE : **27TH NOVEMBER, 2015.**

PER COURT:

. Applicants are involved in Crime No. I-221/2015 registered at Kannad Police Station, Tq. Kannad, Dist. Aurangabad for the offences punishable under Sections 307, 143, 147, 148, 149, 109, 324, 323, 295 of the Indian Penal Code, Section 3(i)(x) of the Scheduled Castes & Scheduled Tribes

(Prevention of Atrocities) Act and Section 135 of the Bombay Police Act.

2. Heard Mr N. S. Ghanekar, learned counsel for applicants and Mr U. S. Mote, learned APP for respondent/State. Perused papers of investigation.

3. It is the case of prosecution that on 17th October, 2015 complainant Vinayak Sonawane was not keeping well and he was sleeping in a room. His wife Usha was president of Eklavya Navdurga Utsav Mandal, Makranpur, Tq. Kannad and all women in the village had installed an idol of goddess. The boys and girls in the village used to play Dandiya in the evening.

At around 10:00 p.m., a crowd assembled in front of the house of complainant. When he came out of the house he saw applicants and co-accused beating his wife and others by means of sticks and pelting stones. He intervened to rescue the quarrel. It is alleged that applicant and co-accused abused complainant and others in the name of caste. They formed an unlawful assembly with a view to set their house on fire.

4. Complainant lodged report with Police on the basis of which above said crime came to be registered on 18th October, 2015. Applicants were arrested on the same day. Since then they are in custody.

5. Learned counsel for applicants vehemently submitted that there was no animosity between two groups. The incident occurred at the spur of moment. He submits that it was a free fight between members of two groups and there was no intention to kill anyone.

6. Learned counsel submitted that injuries caused to the injured were simple in nature and offence u/s 307 of the Indian Penal Code would not attract considering the manner of incident alleged in FIR and injury certificates.

7. Learned counsel further submitted that applicants are permanent residents of village Makranpur and there are no chances of their fleeing from justice. It is submitted that the learned Additional Sessions Judge rejected application for bail

mainly on the ground that investigation is in progress and there is likelihood of applicants indulging in similar criminal activity again.

8. Per contra learned APP strenuously submitted that offence is serious in nature. In all seven persons were injured. In case applicants are released on bail there are chances of riot in the village. Investigation is not yet complete. Weapons are to be recovered and if applicants are released on bail it would adversely affect the smooth investigation. Alternatively learned APP submitted that since complainant and accused/applicants belong to the same place, suitable condition be imposed while releasing them on bail so as to avoid untoward incident in village.

9. On perusal of certificates it can be seen that injuries to all injured were simple in nature. No previous enmity is alleged. Applicants are in custody since last one month. They were remanded to police custody. Investigation papers do not show any recovery at their instance.

10. Applicants are permanent residents of village Makranpur, Tq. Kannad and there is no likelihood of their fleeing from justice. Hence, the following order.

ORDER

- (i) Criminal Application No. 6029 of 2015 is allowed.
- (ii) Applicant No. 1 Yamaji Kachru Vane and Applicant No. 2 Popat Khandu Londhe are released on bail in Crime No. I-221/2015 registered at Kannad Police Station, Tq. Kannad, Dist. Aurangabad for the offences punishable under Sections 307, 143, 147, 148, 149, 109, 324, 323, 295 of the Indian Penal Code and Section 3(i) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and Section 135 of the Bombay Police Act on their furnishing P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each.
- (iii) Applicants shall not tamper with the prosecution evidence and shall make themselves available as and when required by the Investigating Agency.

- (iv) Applicants shall keep themselves away from the village Makranpur, Tq. Kannad, Dist. Aurangabad for a period of one month or till filing of charge-sheet, whichever is earlier.

[INDIRA K. JAIN, J.]

sgp