

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

CRIMINAL APPLICATION NO. 6059 OF 2015

1. Vilas s/o Madhavrao Kokare,
Age : 56 years, Occu. Agri.,
R/o. Jamdaya, Tq. Sengaon,
Dist. Hingoli.

2. Anil s/o Madhukar Kokare,
Age : 26 years, Occu. Agri.,
R/o. Jamdaya, Tq. Sengaon,
Dist. Hingoli.

... Applicants

VERSUS

The State of Maharashtra

... Respondent

.....
Mr Chaudhari, Advocate for applicant
Ms S. S. Raut, APP for respondent/State
.....

CORAM : **INDIRA K. JAIN, J.**
DATE : **3RD DECEMBER, 2015.**

PER COURT:

. Here is an application for pre-arrest bail in Crime No. 76 of 2015 registered at Aundha Police Station, Dist. Hingoli for the offences punishable under Sections 354, 323, 504, 34 of the Indian Penal Code and Section 3(i)(xi) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard Mr Chaudhari, learned Advocate for applicant and Ms S. S. Raut, learned APP for respondent/State. Perused papers of investigation.

3. It is the case of prosecution that on 18.10.2015 between 7:00 and 7:30 pm complainant Meera Potphade went to fetch water at the borewell of Ramrao Kodte. That time Madhukar Kokare held her hand and outraged her modesty. Complainant came home and informed about the incident to her husband.

4. Then she and her husband went to the house of accused and informed applicant No. 1 about the outraging of modesty by Madhukar. They asked Vilas to pacify Madhukar. It is alleged that at that time applicant No. 1 abused the complainant on caste and she was assaulted by applicant No. 2. Incident was reported to police station and accordingly crime was registered against applicants and accused Madhukar.

5. Learned counsel for applicants submitted that offence under the Atrocities act is not attracted against applicant No. 1 Vilas as there are no allegations against him that he attempted to

outrage the modesty of complainant. Learned counsel submits that the only accusations referred in FIR are not sufficient to constitute the offence under Section 3(i)(xi) and since no other role is attributed to applicant No. 1 he be released on bail in alleged offence.

6. In respect to applicant No. 2 Anil it is submitted by learned counsel that FIR is politically motivated as wife of applicant No. 1 had contested the election against the complainant's brother-in-law and to take revenge false FIR came to be lodged against the applicants.

7. It can be seen from the FIR that no overt act is attributed to the applicants regarding outraging of modesty of complainant. The main allegations are against Madhukar. Learned counsel for applicants submitted that Madhukar has been released by trial Court on regular bail.

8. Considering the allegations in the FIR and statements of witnesses it is difficult at this stage to come to the conclusion that the offence under Section 3(i)(xi) of Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act would attract against the applicants. Hence this Court is inclined to allow the application and pass the following order.

ORDER

- (i) Criminal Application No. 6059 of 2015 is allowed.
- (ii) In the event of arrest of applicants Vilas s/o Madhavrao Kokare and Anil s/o Madhukar Kokare in Crime No. 76 of 2015 registered at Aundha Police Station, Dist. Hingoli for the offences punishable under Sections 354, 323, 504, 34 of the Indian Penal Code and Section 3(i) (xi) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, they be released on their furnishing PR and SB of Rs. 15,000/- (Rupees Fifteen Thousand) each.
- (iii) They shall not tamper with the prosecution evidence and shall make themselves available as and when required by the Investigating Agency.

[INDIRA K. JAIN]
JUDGE