

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

CRIMINAL APPLICATION NO. 6065 OF 2015

Shri. Santosh Prabhakar Jadhav

Age : 35 years, Occupation: Agriculturist & Business,

R/o. At/Post : Makranpur,

Tal: Kannad, Dist. Aurangabad.

... Applicant

VERSUS

The State of Maharashtra.

... Respondent

.....

Mr Abhaykumar D. Ostwal, Advocate for applicant

Mr U. S. Mote, APP for respondent/State

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

DATE : **27TH NOVEMBER, 2015.**

PER COURT:

1. Applicant is 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 Ostwal, learned counsel for applicant 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. Applicant was arrested on the same day. Since then he is in custody.

5. Learned counsel for applicant 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 applicant is permanent resident of village Makranpur and there are no chances of his 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 applicant 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 applicant is released on bail there are chances of riot in the village. Investigation is not yet complete. Weapons are to be

recovered and if applicant is released on bail it would adversely affect the smooth investigation. Alternatively learned APP submitted that since complainant and accused/applicant belong to the same place, suitable condition be imposed while releasing him 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. Applicant is in custody since last one month. He was remanded to police custody. Investigation papers do not show any recovery at their instance.

10. Applicant is permanent resident of village Makranpur, Tq. Kannad and there is no likelihood of his fleeing from justice. Hence, the following order.

ORDER

- (i) Criminal Application No. 6065 of 2015 is allowed.
- (ii) Applicant Shri. Santosh Prabhakar Jadhav is 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, Section 3(i)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and Section 135 of the Bombay Police Act on his furnishing P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each.

- (iii) Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required by the Investigating Agency.
- (iv) Applicant shall keep himself 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