

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6853 OF 2014
WITH
CRIMINAL APPLICATION NO. 7049 OF 2014

Dinkar s/o. Ramchandra Surwase
and Ors.

....Applicants.

Versus

The State of Maharashtra

....Respondents.

Mr. Rajendra G. Hange, Advocate for applicants.

Mr. M.M. Nerlikar, APP for State.

Mr. V.P. Savant, Advocate for assisting APP.

CORAM : T.V. NALAWADE, J.
DATED : 19th January, 2015.

ORDER :

1. The application is filed for relief of anticipatory bail. Both the sides are heard. Learned counsel Shir. V.P. Sawant is allowed to assist the learned APP on behalf of the complainant. Criminal Application No. 7049/2014 is allowed and disposed of.

2. The crime is registered on the basis of report given by one Kesharbai Sathe. She has contended that she is cultivating the land of one Kantarao on Batai basis and Kesharbai has share of 8 Ana in water of well situated in the land. She has contended that the applicants/accused are

preventing them from taking water and on that count, there was a dispute. It is their case that on 3.11.2014 when they were fixing the motor for lifting of water from the well, applicants came there, picked up quarrel, gave beating to them and abused them by taking the name of their caste and thereby committed the offence punishable under sections 3 (1) (x) of SC and ST (Prevention of Atrocities) Act and section 324 r/w. 34 etc. of I.P.C.

3. The papers of investigation show that atleast two persons from the side of accused sustained injuries like Dinkar and Rukminibai. The learned APP submitted that there is possibility of having injury certificates in respect of persons from complainant's side with Investigating Officer and he sought time on that count.

4. The learned counsel for the applicants took this Court through the copy of plaint. The learned counsel who is assisting the APP has filed copy of order of temporary injunction made in favour of Smt. Sangita Survase, the lady who has given land to the complainant. It appears that by order dated 7.11.2014 relief of temporary injunction is given in favour of Smt. Sangita and the Court has directed not to interfere in the right to take water from the well in respect of her eight Ana

share.

5. The aforesaid material shows that there is possibility that some incident did take place. However, the owner is not from the caste covered under the Special Act. It can be said that due to civil dispute, some incident did take place and crime is registered for the offence under section 324 of I.P.C. and that offence is bailable in this State. In view of the other possibility in favour of the applicants and in view of the nature of dispute, this Court holds that protection needs to be given to the applicants. Remedy is available to the complainant to approach the Civil Court for breach of injunction order, if any. Such pressure tactics cannot be allowed to be used and misuse of aforesaid provisions of Special Act cannot be allowed to be done.

6. In the result, the application is allowed. Interim relief granted in favour of applicants is confirmed. Applicant Nos. 1 and 2 to attend the concerned police station on every Sunday between 9.00 a.m. and 12.00 noon for the period of one month from today and they are to cooperate police during investigation.

[T.V. NALAWADE, J.]

SSC/