

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.975 OF 2015

Vijay Pandurang Deshmukh	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.A.P. Kulkarni i/b A.P. Shinde for the Applicant
Mr.J.H. Ramugade, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **JULY 31, 2015**

P.C.:

1. The application is moved for pre-arrest bail as the applicant/accused is apprehending arrest in C.R. No.89 of 2015 registered with Islampur police station for the offences punishable under sections 3(1)(x) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 and under section 7(1)(d) of the Protection of Civil Rights Act. It is the case of the complainant that he got one plot in one Prime Minister's scheme in 2004 and he wanted to get one plot in the name of his mother. Therefore, he moved the application that he belongs to scheduled caste and, therefore, the mother is entitled to get such plot under the scheme. So, on 15.4.2015, he went to the applicant/accused, who is holding the post of Sub-Divisional Officer, Walwa Division, Islampur. At that time, he went there to make enquiry about the plot in the name of his mother. As per the case the complainant, the applicant/accused abused him and he told him that he would not do his work. So he went away. Then he went and met

one Uday @ Anandrao Pawar, President of a political party and took him alongwith other party workers, on the next day i.e., 16.4.2015 at 3.30pm to the office of the SDO, i.e., the applicant/accused. The complainant and Anandrao Patil went into the cabin of the applicant/accused and at that time, the applicant/accused abused him by caste and therefore, he gave complaint.

2. The learned Counsel for the applicant/accused submitted that it is a false case as the applicant/accused is the SDO and he has rejected the application of allotment of plot in the name of the mother of the complainant on 15.4.2015 and, therefore, he is falsely implicated on the next day, in this case under the the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. He has therefore, prayed that he be granted pre-arrest bail.

3. Learned Prosecutor has opposed the application and relied on the statements of Anandrao Patil and submitted that this being an offence under the the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989, no pre-arrest bail can be granted as there is a bar under section 18 of the Act in granting pre-arrest bail, if the offence is made out.

4. On a plain reading of the complaint, as per the allegations, the applicant/accused abused the complainant by his caste on 16.4.2015 in his chamber. It appears as per the submissions of the learned Counsel for

the applicant and the facts, that the application of the complainant for allotment was rejected by the applicant/accused on 15.4.2015. Therefore, the submission of the learned Counsel for the applicant that the complainant has falsely implicated him out of vengeance, cannot be ruled out and considering this possibility, the bar under section 18 of the Act can be lifted. Hence, the application is entertained under section 438 of the Criminal Procedure Code. In the circumstance, I am inclined to grant pre-arrest bail to the applicant/accused on the following condition:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, with one or two solvent sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence while on bail;
- iv) The applicant shall cooperate with the Investigating Officer and attend the concerned police station as and when called, till filing of chargesheet.

(MRS.MRIDULA BHATKAR, J.)