

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1524 OF 2015

Vikram Ramhari Kanase & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondent

..

Mr. B.D. Bahal i/b. Mr. D.M. Waghmare for the Applicants.

Mr. J.H. Ramugade, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 8th DECEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicants apprehending their arrest in Crime No.137 of 2015 registered at Waduj Police Station, District- Satara, for the offences punishable under section 324, 325, 504, and 506 r/w. section 34 of the IPC and section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 7 (1) (3) of the Civil Protection Act.

2. Mr. Bahl, the learned counsel for the Applicants submits that the Applicant No.1 is himself a member of Schedules Caste and as

such an offence under section 3(1) (x) cannot be made against the Applicant No.1. He has further submitted that the present complaint is filed after four days of the lodging of the complaint against the complainant. He has further submitted that the FIR does not prima facie disclose offence under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes Act and as such the bar of section 18 is not applicable.

3. The learned APP submits that the FIR prima facie discloses the essential ingredient of offence under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes Act and hence, the Applicants are not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the Applicants and the learned APP for the Respondent -State. At the outset it may be mentioned that the provisions of section 3 of the Scheduled Castes and Scheduled Tribes Act are applicable only to those persons not being members of the Scheduled castes or scheduled Tribes. The caste certificate at Exh.'D' reveals that the Applicant No.1 is himself a member of the scheduled castes and as such the provisions of section 3 (1) (x) cannot

be made applicable to the Applicant No.2. Hence, prima facie the bar of section 18 would not be applicable qua the Applicant No.1. The FIR does not specifically reveal that the Applicant No.1 was involved in a crime. Nonetheless the FIR indicates that the son of Balu Kanase had slapped the complainant. The learned APP, under instructions submits that the present Applicant is not the son of said Balu. Considering this fact, in my considered view there is no prima facie material to indicate that the Applicant No.1 herein was member of unlawful assembly and that he was involved in inflicting injury on the complainant and his family members. Under the circumstances, the Applicant No.1 is entitled for bail.

6. As regards the Applicant Nos.2 and 3 are concerned, there are prima facie allegations against them for having committed offences under sections 3(1) (x) of the Scheduled Castes and Scheduled Tribes Act. Hence, in view of the section 18 of the Scheduled Castes and Scheduled Tribes Act, the application under section 438 of the Criminal Procedure Code is not maintainable against the Applicant Nos.2 and 3.

7. Under the circumstances and in view of discussion supra, the application is dismissed qua the Applicant Nos.2 and 3. The

application is allowed qua the Applicant No.1 on the following terms and conditions:-

ORDER

(i) In the event of arrest of the Applicant No.1 he shall be released on bail on furnishing bail bonds of Rs.15,000/-(Rupees Fifteen Thousand only) with one or two sureties to the like amount to the satisfaction of Sessions Court, Vaduj, Dist. Satara.

(ii) The Applicant No.1 to report to the Investigating Officer initially for four days from 10.00 a.m. to 1.00 p.m. and further as and when required for the purpose of investigation and interrogation.

8. At this stage, the learned counsel for the Applicants submits that the Applicant Nos.2 and 3 will surrender before the Sessions Court, Vaduj and file application for bail. The learned APP, under instructions submits that the Applicant Nos.2 and 3 will not be arrested for a period of 10 days to enable the Applicant Nos.2 and 3 to surrender before the Sessions Court. Statement is accepted.

(ANUJA PRABHUDESSAI, J.)