

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 427 OF 2015

1. Bharat Vasanji Dedhia
2. Neeta Bharat Dedhia
3. Siddhi Bharat Dedhia

.....Applicants

V/s.

The State of Maharashtra

....Respondent

WITH
CRIMINAL APPLICATION NO. 372 OF 2015
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 427 OF 2015

Aarti Suresh Limda

....Intervener

IN THE MATTER BETWEEN

1. Bharat Vasanji Dedhia
2. Neeta Bharat Dedhia
3. Siddhi Bharat Dedhia

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Ms. Prabha Uday Badadare for Applicant
Mr. P. A. Pol i/b POL Legal Juris for Intervener
Ms. S. S. Kaushik APP for the State.
Mr. vinayak G. Patil P.S.I. Matunga Police Station

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 23rd JUNE 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 91 of 2015 registered at Matunga Police Station for offence punishable under sections 354, 323, 504 of Indian Penal Code and section 310 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2) It is the case of prosecution that on 13/03/2015, complainant Neeta Dedhia lodged a report at the police station alleging therein that she belongs to 'Varli' community which is scheduled tribe. According to her, her father was owner of Ami Auto Services situated at Kasa, Taluka Dahanu, Dist. Thane/At present Palghar. She has alleged that her father was running the said auto services petrol pump in partnership with present applicant no. 1. According to her in the year 1999 her father expired and thereafter present applicant no. 1 has converted the said firm into proprietorship firm. He was giving Rs. 2,5000/- to her mother in view of the said agreement. One and half year ago, she realized that her father had 51% share in the said firm. She had filed an application for inducting her name in the 7/12 extract. She wanted petrol pump to be transferred in her name and therefore, she approached

Indian Oil Corporation. She was asked by the Corporation to obtain no objection certificate from present applicant no. 1. According to her, applicant had refused to give no objection certificate. On 13/03/2015, she along with her friend Chaitali Awasthi went to the house of the applicant no. 1. Wife of applicant no. 1 had opened the door and informed the complainant that applicant no. 1 is not at home. According to complainant, she had suspected that he is in the house. She requested the wife of applicant no. 1 to allow her to contact applicant no. 1 or else she would raise hue and cry. Thereafter, wife of applicant no. 1 had opened the door. It is alleged that applicant no. 1 had abused her by referring to her caste and had also touched her hand. That he had also asked other applicants to assault her. According to her, wife of applicant no. 1 and his daughter had even assaulted her friend with fists and had referred to the complainant as 'Adiwasi Jamat'. On the basis of the said report, crime no. 91 of 2015 was registered. Hence, applicants are apprehending their arrest.

3) Learned counsel for the applicants has submitted that agreement which was signed on 12/05/1995 clearly indicates that it was a partnership firm. In any case, it is not disputed by complainant in her report lodged before police

station. Today, learned counsel appearing for the complainant submits that initially agreement was only with the father of the complainant, however, subsequently, applicant has put in his signature and has signed the said documents.

4) Be that as it may, since it is admitted by the complainant that it was a partnership firm, the said issue need not be gone into. According to learned counsel for the complainant, applicant had humiliated her by referring to her caste and therefore, provisions of atrocities act would attract and applicants would not be entitled for grant of pre-arrest bail in view of the embargo put in under section 18 of the said Act. Recitals of the F.I.R. clearly show that incident has occurred in the house of applicants and that the said allegations of humiliating the complainant by referring to her caste has also occurred within four walls of the house of applicant.

5) Section 3 (1) (x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 contemplates:

“intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.”

6) It is an admitted position that the said act had not occurred within the

public view. In view of this, the said embargo under section 18 of the said act would not be applicable in the present case. It prima facie appears that there is a dispute between applicant and complainant over ownership/partnership of petrol pump. In view of this, applicants have made out prima facie for grant of pre-arrest bail. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicants be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount.
- (iii) Applicants shall report to the concerned police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)