

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 807 OF 2015

1. Dattatray Baburao Sangale	
2. Ramesh Baburao Sangale	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Mr. M.S. Karnik i/b. Mr. Sachin Gite, Advocate for the applicants.
Ms. Veera Shinde, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 24, 2015**

P.C.:

This Application is moved for pre-arrest bail under section 438 of the Criminal Procedure Code, as the applicants/accused are apprehending arrest in C.R. No. II-6 of 2015 registered with Dindori Police Station, District Nashik for the offences punishable under sections 323, 504, 506 r/w. 34 of the Indian Penal Code and under section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The FIR is given by Suresh Ramkrishna Korade on 20th February, 2015.

2. It is the case of the prosecution that the mother of the complainant is a Sarpanch and the family belongs to Hindu Mahadeo Koli community. On 28th January, 2015 when the complainant was going from one village to other by road, at that time, the applicant/accused Dattu Sangle and Ramesh Sangale started abusing him. Ramesh Sangale assaulted the

complainant by slaps and bamboo stick and he abused him of his caste. He also said that why your mother, belonging to Scheduled Caste, is in Gram Panchayat. The incident has taken place on public road and therefore, the offence was registered under Scheduled Castes and Scheduled Tribes Act.

3. The learned counsel for the applicants/accused has submitted that there is a delay of 20 days in lodging the FIR. Undoubtedly from the alleged incident, it is clear that there is political rivalry between the family of applicants/accused and the complainant. The complaint is politically motivated. He further relied on the evidence given by the witnesses that no such incident has taken place on the road.

4. Learned APP opposed the Application and she relied on the complaint. She submitted that the offence has taken place in public place. There is a delay of 20 days in lodging FIR. The offence under Scheduled Castes and Scheduled Tribes Act is non-bailable and it is exception to Section 438 of Cr. P.C. Under such circumstances, it is necessary to examine *prima facie* whether the incident would have been occurred or not. As submitted by the learned counsel for the applicants/accused, the mother of the complainant was holding the post of Sarpanch in the Village, one of the applicant/accused Dattu was hostile towards her. There is a delay of 20 days in lodging FIR. This delay is not explained by the

complainant at this stage. The delay of 20 days is quite substantial delay and for want of explanation, I am of the view that bar under Section 18 of Scheduled Castes and Scheduled Tribes Act can be lifted and hence I confirm the order of interim bail granted by this Court earlier with the same terms and conditions. The applicants/accused to attend the concerned police station as directed till the filing of the charge sheet.

(MRS.MRIDULA BHATKAR, J.)