

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1004 OF 2015

Samir Shamsuddin Pathan	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. Bhalchandra Shinde, for the Applicant.
Mr. D.P. Adsule, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 17, 2015**

P.C.:

1. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 325, 504 and 506 read with section 34 of the Indian Penal Code and Section 3(1)(X) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter “SC/ST Act”) in C.R. No. 130 of 2015 registered with Indapur City police station, Pune.

2. One Anil Pawar has given information on 3rd May, 2015 to the police that there was an incident of assault on 30th April, 2015

between his cousin and the applicant/accused and his father. It is his case that thereafter on 1st May, 2015 when he was going along with his mother, the applicant/accused and his brother both assaulted him with iron rod on his hand and leg and at that time they abused him by his caste publicly and threatened him of his life. Due to the said assault, his hand was fractured. Thereafter he lodged the complaint.

3. The learned counsel for the applicant/accused has submitted that the applicant is falsely implicated in this case. He never uttered abusive words. He submits that due to the first incident of assault, he is falsely implicated in this case. Though the incident has taken place on 1st May, 2015, the first information report was given on 3rd May, 2015. There is delay of two days. The applicant/accused is a student of the Engineering college. He prays for pre arrest bail.

4. The learned prosecutor opposed the application as the offence is committed under the SC/ST Act and there is grievous hurt caused to the complainant.

5. Perused the first information report. There is a bar under Section 18 of the SC/ST Act to entertain the application under Section 438 of the Code of Criminal Procedure. Considering this, once there is allegation that there is utterance by caste in public and there is no material *prima facie* to disbelieve this case, that bar can not be lifted.

6. Hence, the application stands rejected.

(MRS.MRIDULA BHATKAR, J.)