

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1484 OF 2015

Bhanudas Narayan Gorhekar .Applicant

v/s.

The Senior Inspect of Police, .Respondents
Waliv Police Station & anr.

Mr.Birendra Kumar, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent No.2 –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks pre-arrest bail in connection with C.R.No.
139 of 2015 registered with the Waliv Police
Station, District - Palghar, for the alleged
offences punishable under Sections 143, 147, 149
& 326 of the Indian Penal Code and under Section

3(1) and Clauses 10 & 11 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

3. It appears that the application for anticipatory bail essentially came to be rejected by the learned Sessions Judge only on the ground, that the application was not maintainable, in view of the bar under the SC & ST Act.

4. The incident in question is alleged to have taken place on 13.04.2015. The complainant is Gangadhar Janardhan Mhatre, who has lodged a complaint as against Prabhakar Mhatre, Suresh Mhatre, Prakash Mhatre, Abhay Mhatre and 4-5 unknown persons. It is alleged that the said persons assaulted with sticks and iron rods. In the FIR, the complainant has alleged overt acts to the aforesaid persons named in the FIR. The

name of the present applicant was disclosed by the complainant for the first time, in his supplementary statement recorded on 17.05.2015.

5. Learned counsel for the applicant submits that the complainant despite hailing from the same village and knowing the applicant has not disclosed his name in the FIR, as the applicant was not present. He submits that the applicant has been falsely implicated after one month. He submits that the only allegation even in the supplementary statement is that the applicant was present at the spot, at the time of the alleged incident.

6. Learned APP fairly submits that infact, it appears that the complainant does not belong to the Scheduled Caste/Scheduled Tribe. He does not dispute the fact, that the applicant has been named by the complainant in the

supplementary statement recorded on 17.05.2015, after almost one month. He submits that in the said supplementary statement, the allegation is that the applicant was only present at the spot, at the time of the assault and that no overt act has been attributed to the present applicant.

7. Perused the papers. It is not disputed that the applicant has not been named in the FIR and has been impleaded in the said case after more than one month. Even otherwise, it appears that no overt act has been attributed to the applicant.

8. Considering the nature of allegations, the applicant is granted anticipatory bail on the following terms & conditions:

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on furnishing

P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;

(iii) The applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.