

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

ANTICIPATORY BAIL APPLICATION NO.1629 OF 2015

Santosh Narayan Bhakte & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Rahul S. Kate of the Applicants.

Mr. Y.M. Nakhwa, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 23rd NOVEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the Applicants herein in apprehension of their arrest in Crime No.485 of 2015 registered with Baramati city police station, Pune (rural) for the offences punishable under section 354, 323, 143, 147, 504 and 506 of the IPC, section 135 of the Bombay Police Act and sections 3 (1) (X) (XI) of S.C. and S.T. (Prevention of Atrocities Act).

2. Heard the learned counsel for the Applicants and the learned APP for the Respondent-State.

3. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The FIR was lodged by one Lalita Balraj Mane. She had stated that at about 10.00 p.m. while she and her husband, who belongs to 'Chambhar' community, were in the house, the Applicants alongwith others had come outside their house and had called them out. The Applicants and others had abused them and assaulted her husband and when she intervened the Applicants and others abused them with reference to their caste. She had also alleged that the Applicants had held her hand and outraged her modesty. Based on the said complaint, aforesaid FIR came to be registered.

5. In the case of **Vilas Pandurang Pawar & Anr. vs State Of Maharashtra & Ors, 2012, Cri. Law Journal 4520** the Apex Court has held as under :-

“Section 18 of the SC/ ST Act creates a bar for invoking Section 438 of the Code. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has

been prima facie made out. In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.”

6. In the present case, the complaint does not prima facie reveals that the incident had occurred in the public view, which is one of the essential ingredients of the sections 3 (1) (X) (XI) of S.C. and S.T. (Prevention of Atrocities Act). Hence, prima facie ingredients of offence punishable under sections 3 (1) (X) (XI) of S.C. and S.T. (Prevention of Atrocities Act) are not made out. Hence, the bar under section 18 will not be applicable to the facts of the case.

7. The offences alleged against the Applicants are not grave or heinous in nature. The nature of allegations levelled against the Applicants do not warrant custodial interrogation. The Applicants are permanent residents of Limtake, Taluka-Baramai, District-Pune, and hence there is no possibility of them absconding or fleeing from the course of justice.

8. Under the circumstances the anticipatory bail application is allowed on the following terms and conditions :-

(i) In the event of arrest of the Applicants in Crime No. 485 of 2015 registered with Baramati city police station, Pune (rural), the Applicants be released on bail on furnishing bail bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one surety in the like amount to the satisfaction of Judicial Magistrate, First Class, Baramati.

(ii) The Applicants shall report to the Investigating Officer for four days between 10.00 a.m. to 1.00 p.m. and further as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(iii) The Applicants shall cooperate in the investigation and shall not interfere in any manner with the complainant or witnesses.

(ANUJA PRABHUDESSAI, J.)