

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1838 OF 2015

Mhasu Gangadhar Gagare ..Applicant

v/s.

The State of Maharashtra. ..Respondents

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1839 OF 2015**

Samadhan @ Pappu Lalaji Gagare ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Sachin Gite for the Applicant
Mr. S.S.Pednekar, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 05, 2015.**

P.C.

1. These applications for anticipatory bail are filed by the aforesaid applicants apprehending their arrest in Crime No.I-161 of 2015 registered with Chandwad Police Station for the offence punishable under Section 143, 147, 148, 149, 324, 326, 504 and 506

of the Indian Penal Code and under Section 3(1)(x) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocity) Act.

2. Shri Gite, the learned counsel for the applicant has submitted that the FIR has been lodged about four days after the incident. He has further submitted that the applicant herein had also lodged FIR dated 25.10.2015 against the complainant and others in respect of the same incident and that a crime has already been registered against the complainant and others. He has submitted that prima facie there is no material to show the involvement of the applicant in commission of the said crime. He has further submitted that the FIR does not disclose the offence under Schedule Caste and Schedule Tribes Act, and hence the bar under Section 18 is not applicable to the present case. He has submitted that considering the nature of the allegations and the manner in which the incident had occurred, the applicants are entitled for bail.

3. The learned APP has conceded that the FIR does not prima facie reveal the offence under Schedule Caste and Schedule Tribe Act. He

however claims that there is prima facie material to show involvement of the accused in commission of the offence under Section 326 of IPC. The offence is of serious nature and therefore the applicants are not entitled for bail.

4. I have perused the records and considered the arguments advanced by the learned Counsel for the applicant and the learned APP for the State. At the outset it may be mentioned that though the applicants are alleged to have committed offence under Section 3(1) (x) of the Schedule Caste and Schedule Tribes Act, the FIR does not prima facie disclose the offence under the said Act. Hence the bar of Section 18 would not be applicable in the present case.

5. The records prima facie reveal that there was dispute between the parties over grazing of cattle which led to altercation and scuffle between the parties. The records further reveal that there was enmity between both the groups. The records reveal that the applicant and his family members as well as the complainant and her family members had assaulted each other. Both the members of the

group had sustained greivous injuries. The records prima facie reveal that the applicants herein had lodged a complaint in respect of same incident on the same date i.e. on 25.10.2015 and crime is already registered against the complainant and the other members of the family . In the present case the complaint has been lodged by the daugher of the injured after four days of the incident.

6. Considering the facts and circumstances of this case, in my considered view, this does not justify custodial interrogation. The applicants have no criminal antecedents. The applicants are the permanent resident of Chandwad Taluka, hence there is no possibility of the applicants absconding or thwarting the course of justice.

7. In the facts and circumstances, the anticipatory bail applications are allowed on the following terms and conditions:-

i) In the event of arrest of the applicants in Crime No.I-161 of 2015 by Chandwad Police Station, the applicants be released on bail on furnishing bail bond of Rs.20,000/- each (Rupees Twenty Thousand Only each) with one or two solvent surety/ies in the like

amount to the satisfaction of the learned JMFC, Chandwad.

ii) The applicants shall report to the Investigating Officer for a period of seven days between 10 a.m. to 1.p.m. and further as when required by the Investigating Officer for the purpose of investigation and interrogation.

iii) The applicants shall not leave Nashik District till filing of the chargesheet, without prior permission of the JMFC, Chandwad.

(ANUJA PRABHUDESSAI, J.)