

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 11 OF 2016

Shrimant Yeshwant Mane,
Age: 64 years, Occ: Agri.,
R/o. At Madaj, Tal. Omerga,
Distict Osmanabad.

...Applicant

versus

The State of Maharashtra,
through Omerga Police Station,
Tq. Omerga, Dist. Osmanabad.

...Respondent

WITH

CRIMINAL APPLICATION NO. 420 OF 2016

IN

CRIMINAL APPLICATION NO. 11 OF 2016

Netaji Arjun Gaikwad,
Age: 35 years, Occ: Agri./Social Worker,
R/o. Madaj, Tq. Omerga,
Dist. Osmanabad.

...Applicant

versus

Shrimant Yeshwant Mane,
Age: 64 years, Occ: Agri.,
R/o. At Madaj, Tal. Omerga,
Distict Osmanabad.

...Respondent

.....

Mr. Parag V. Barde, Advocate for applicant
Smt. R.K. Ladda, A.P.P. for respondent/State
Mr. A.U. Chandel, Advocate to assist A.P.P.

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CORAM : N.W. SAMBRE, J.

DATE : 19th JANUARY, 2016

ORAL ORDER :

For the reasons stated in the application, Criminal

Application No. 420 of 2016 to assist A.P.P. is allowed.

2. The applicant is seeking pre-arrest bail in Crime No.66 of 2015 registered with Omerga Police Station, Taluka Omerga, District Osmanabad for the offence punishable under Sections 323, 504, 506, 109 read with Section 34 of the Indian Penal Code and under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, for the alleged incident of 11/12/2015.

3. The prosecution story against the applicant is that the applicant abused the complainant while witnessing the sports event i.e. in a public place, based on caste, as a result of which, above referred offence is registered.

4. Learned Counsel for the applicant, while trying to make out a case for grant of bail, would urge that there is previous enmity (political) between the applicant and complainant and would submit that complainant Netaji has initiated proceedings for disqualification under the provisions of Section 14(1)(g) of the Bombay Village Panchayat Act against his sister in law Ranjana (wife of elder brother Mohan of applicant). He would then urge that his sister in law Ranjana has initiated proceedings for disqualification on the allegations that complainant is having three children and as such, is

not entitled for post of member of Grampanchayat.

5. He would then urge that there is delay in lodging F.I.R. and according to him, false implication of the applicant in the crime in question cannot be ruled out, as brother of applicant namely Mohan who has no role in crime is also added as accused.

6. Learned A.P.P., who is assisted by Advocate Mr. Chandel, would strenuously opposed the application on the ground that bar under Section 18 of the Atrocities Act would be attracted. Learned A.P.P. would urge that initially there was complaint on 11/12/2015 itself, however, the same was not processed and according to her, there are two eye witnesses to the incident in question, as such, prayed for rejection of the application.

7. With the assistance of A.P.P., I have scanned the investigation papers.

8. Having bestowed my anxious thought to the submissions, it is required to be noted that sister in law of present applicant is holding post of Sarpanch of village panchayat and already there exist political enmity/dispute between the applicant and complainant in view of initiation of proceedings for disqualification

against sister in law and complainant by each of them. Apart from above, though real brother of applicant Mohan was not present on the spot and there is no role attributed against him, still he is implicated as accused, which speaks of political motivation with which complaint came to be lodged. The political background in the complaint can be ascertained from the contents of F.I.R.

9. In view of above, the investigation to my knowledge, appears to be almost complete, as there is hardly anything to be recovered.

10. In view of likelihood of false application, in my opinion, bar under Section 18 of the Atrocities Act would not attracted, as such, the application stands allowed. Hence, the following order.

In the event of arrest, the applicant be released on bail, in connection with Crime No.66 of 2015 registered with Omerga Police Station, Taluka Omerga, District Osmanabad for the offence punishable under Sections 323, 504, 506, 109 read with Section 34 of the Indian Penal Code and under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon executing P.R. bond of Rs.15,000/- with one surety in the like amount. The applicant shall attend the concerned police station

every day from 21st January to 23rd January, 2016 in between 10-00 a.m. to 12-00 noon and thereafter as and when called by the Investigating Officer.

11. Criminal Application No.11 of 2016 for grant of pre-arrest bail stands allowed in above terms.

[N.W. SAMBRE, J.]

Tupe/19.01.2016