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

CRIMINAL APPLICATION NO.644 OF 2016

1. Rajendra s/o Ramdas Wankhede,
2. Umesh s/o Madhukar Wankhede,
3. Madhukar s/o Dadaseth Wankhede,
4. Ganesh s/o Krishna Raut,
5. Azhar s/o Akbar Patel,
6. Shaikh Salman s/o Shaikh Habib,
7. Sonu @ Anantrao Devidasrao Nikam ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

**WITH
CRIMINAL APPLICATION NO.645 OF 2016**

1. Bhaskar s/o Dadarao Wankhede,
2. Jitendra s/o Bhanudas Wankhede,
3. Bhanudas s/o Dadasaheb Wankhede,
4. Baban s/o Ramdas Wankhede,
5. Sou. Mandabai w/o Bhaskar Wankhede ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr Mangesh R. Jadhav, Advocate for applicants;
Mr S.M. Ganachari, Addl. Public Prosecutor for respondent;
Mr V.A. Bagdiya, Advocate to assist Addl. Public Prosecutor

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CORAM : N.W. SAMBRE, J.

DATE : 23rd February, 2016

ORDER :

Heard respective Counsel.

2. By the present applications under section 438 of the Code of Criminal Procedure, the applicants seek their release on pre-arrest bail, in connection with C.R. No.I-217 of 2015, registered with Phulambri police station, Tq. Phulambri, Dist. Aurangabad, for offences punishable under sections 143, 323, 504, 506 of the Indian Penal Code and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The case of the prosecution is that the applicants have assaulted the complainant Swati and then insulted by abusing in filthy language, based on her caste.

4. Learned Counsel appearing on behalf of the applicants, while trying to make out a case for grant of pre-arrest bail, would submit that it is the brother of the complainant Swati, namely, Akash, who has tried to molest the daughter of Bhaskar Wankhede - applicant no.1 in Criminal Application No.645 of 2016. Pursuant to the complaint lodged by Pooja – daughter of Bhaskar, C.R. No.215 of 2015 came to be registered against said Akash for offences punishable under sections 354, 506 of the Indian Penal Code and under sections 7 and 5 of the Protection of Children from Sexual

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Offences Act.

5. Learned Counsel would then urge that apart from perusal of the investigation papers by this Court, false implication of the applicants could be inferred, as first information report in C.R. No.217 of 2015 is after registration of C.R. No.215 of 2015.

6. Learned Addl. Public Prosecutor fairly submits that in the investigation none of the witnesses have supported the case of the complainant *qua* the allegation, which prompted invoking of provisions of section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Learned Counsel appearing on behalf of the complainant has strenuously opposed the applications.

7. Having considered rival submissions and upon perusal of the investigation papers, it is noted that the complainant Swati was examined by Head of the Department of the Government Medical College and Hospital, Aurangabad on the date of the incident, i.e. on 29th December, 2015 and had certified that she and foetus are in perfect condition.

8. It is then required to be noted that upon perusal of the other medical papers, no injury could be noticed on the complainant. So far as the offence under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is concerned, none of the witnesses have supported the claim of the complainant.

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9. In view of above, the probable story as narrated by the applicants, in relation to their false implication in the offence in question, is required to be accepted.

10. In the light of above observations, in my opinion, it will be appropriate to grant pre-arrest bail to the applicants. I, therefore, pass following order :-

In the event of arrest of the applicants, in connection with C.R. No.I-217 of 2015, registered with Phulambri police station, Tq. Phulambri, Dist. Aurangabad, for offences punishable under sections 143, 323, 504, 506 of the Indian Penal Code and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicants shall attend the concerned police station on 28th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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