

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

CRIMINAL APPLICATION NO. 1033 OF 2016

1. Sangita w/o Govind Mache,
Age: 50 years, Occ: Agri.,
R/o. Bhaygaon Ganga, Tq. Vaijapur,
District Aurangabad.
2. Motiram s/o Govind Mache,
Age: 26 years, Occ: Agri.,
R/o. Bhaygaon Ganga, Tq. Vaijapur,
District Aurangabad. ...Applicants

versus

The State of Maharashtra
Through the Police Station Shivoor,
Tq. Vaijapur, Dist. Aurangabad. ...Respondent

.....
Mrs. S.K. Doke (Renge), Advocate for applicants
Mr. M.M. Nerlikar, A.P.P. for respondent
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CORAM : N.W. SAMBRE, J.

DATE : 3rd MARCH, 2016

ORAL ORDER :

The applicants are seeking pre-arrest bail in Crime No. II-2 of 2016 registered on 25/01/2016 with Shivoor Police Station, Taluka Vaijapur, District Aurangabad for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Learned Counsel for the applicants submits that the applicants are falsely implicated in the crime in question and so as to substantiate the contentions, has invited my attention to the delay caused in lodging first information report. He would then urge that all the family members of the applicants are named as an accused in two incidents, one occurred on 21/01/2016 and second on 23/01/2016. He would further submit that looking to the nature of allegations, false implication of the applicants cannot be ruled out and as such, their custodial interrogation is not necessary.

3. Learned A.P.P. opposed the application in view of operation of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He would then urge that there is an explanation to the delayed first information report.

4. According to him, there is *prima facie* involvement of the applicants in the crime in question, as the incident has occurred in a public place and as such, prayed for rejection of the application for bail.

5. The applicants, though claimed to have committed an offence punishable under Section 323 of Indian Penal Code, no role therein is alleged against them so far as the said crime is concerned.

So far as the crime under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is concerned, it is required to be noted that the incident as is narrated against the applicants had taken place on 23/01/2016, that too on the road, however, it is not claimed that any of the person has witnessed the said incident. Apart from above, the delay in lodging first information report, in my opinion, is not at all explained. Looking to the fact that all family members of the applicants are named as an accused in the first information report, in my opinion, their false implication in the crime in question cannot be ruled out. As such, bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, will not be attracted in the present case. There are no criminal antecedents against the present applicants. Nothing is remained to be recovered from the applicants, as such, no custodial interrogation is necessary.

6. In view of above, in my opinion, it will be appropriate to order the release of the applicants. Hence, the following order:-

(a) In the event of arrest, the applicants be released on bail, in Crime No. II-2 of 2016 registered with Shivoor Police Station, Taluka Vaijapur, District Aurangabad for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(1)(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, by each of them.

(b) The applicants shall attend the concerned police station on 12th and 13th March, 2016 between 10-00 a.m. and 12-00 noon and thereafter as and when called by the Investigating Officer.

6. The criminal application stands allowed in above terms.

[N.W. SAMBRE, J.]