

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

CRIMINAL APPLICATION NO. 2819 OF 2016

Vikram s/o Nilkhant Sankaye,
Age: 36 years, Occ: Advocate,
R/o. Shelhal Road, Udgir,
Tq. Udgir, Dist. Latur.

...Applicant

versus

The State of Maharashtra
Through the Police Station Officer,
Police Station, Udgir (Rural),
Tq. Udgir, Dist. Latur.

...Respondent

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Mr. Mahesh Deshmukh, Advocate h/f Mr. P.A. Bharat, Advocate for
applicant
Mr. S.J. Salgare, A.P.P. for respondent

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WITH
CRIMINAL APPLICATION NO. 2795 OF 2016

1. Aditya s/o Sharad Deshmukh,
R/o. Shekapur, Tq. Udgir,
Dist. Latur.
2. Pramod s/o Prakash Rajurkar (Joshi),
3. Pradeep s/o Prakash Joshi (Rajurkar),

Both R/o. Sai Nagar, Bidar Road,
Udgir, Tq. Udgir, Dist. Latur.

...Applicant

versus

The State of Maharashtra
Through the Police Station Officer,
Udgir Gramin Police Station,
Tq. Udgir, Dist. Latur.

...Respondent

.....

Mr. Niteen V. Gaware, Advocate for applicants
Mr. S.J. Salgare, A.P.P. for respondent

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WITH

CRIMINAL APPLICATION NO. 2789 OF 2016

1. Gangadahr Manmath Swami,
2. Sou. Minakshi Gangadhar Swami,

Both R/o. Shevteerth Ketaki Sangameshwar
Colony, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur. ...Applicants

versus

1. The State of Maharashtra
Through Udgir (Rural) Police Station,
Tq. Udgir, Dist. Latur.
2. Abhijit Malhari Somwanshi,
R/o. Nideban, Tq. Udgir,
Dist. Latur. ...Respondents

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Mr. R.P. Adegaonkar, Advocate for applicants
Mr. S.J. Salgare, A.P.P. for respondent

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CORAM : N.W. SAMBRE, J.**DATE : 29th JUNE, 2016****ORAL ORDER :**

The applicants are seeking pre-arrest bail in Crime No. 135 of 2016 registered with Udgir (Rural) Police Station, District Latur, for an offence punishable under Sections 452, 143, 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is claimed that the alleged incident took place during the period from 06/04/2016 to 08/04/2016.

3. The prosecution case against the present applicants is that complainant Abhijit, who has entered into compromise before learned District Judge, Udgir in Misc. Civil Application No. 1 of 2015 moved under Section 29 of the Guardians and Wards Act, 1890. The original proceedings under Section 29 of the Guardians and Wards Act were moved by the applicants and complainant Abhijit was objector. The said matter was settled as is apparent from the application for settlement moved on 14/09/2015, which is signed by complainant Abhijit.

4. It is then required to be noted that the complainant has received an amount of Rs.7,00,000/- and there is cancellation of agreement executed in favour of the complainant.

5. It is required to be noted that pursuant to the said transaction, differences between the parties arose and all the applicants visited place of complainant and independently used caste based insulting attributions against the complainant.

6. Learned Counsel for the applicants, in the above

referred background, submits that apart from unexplained delay of two days in lodging first information report, false implication of the applicants in the crime in question cannot be ruled out, particularly in the back ground of dispute between the parties as is reflected in the application under Section 29 of the Guardians and Wards Act preferred before learned District Judge.

7. While opposing the application, learned A.P.P. would strenuously urge that there are two eye witnesses to the incident in question and in view of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, applications need to be rejected.

8. *Prima facie* from the investigation papers, it could be inferred that the complaint is based on caste based insulting attributions and threats issued to the complainant by the applicants.

9. There is no explanation as to why there is delay of two days in lodging the first information report. Note could be taken of the fact as regards parties will litigating under Section 29 of the Guardians and Wards Act before learned District Judge. In view of above, false implication of the applicants in the crime in question cannot be ruled out.

10. Apart from above, in my opinion, custodial interrogation of the applicants, having regard to the allegations in the first information report is not necessary. In view of above observations, in my opinion, bar under Section 18 of the Atrocities Act will not operate.

11. In view of above, In my opinion, it will be appropriate to grant protection to the applicants. Hence, the following order :-

(i) In the event of arrest, the applicants be released on bail, in connection with Crime No. 135 of 2016 registered with Udgir (Rural) Police Station, District, Latur, for an offence punishable under Sections 452, 143, 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount, by each of the applicants.

(ii) The applicants shall attend the concerned police station on 8th and 9th July, 2016 between 10-00 a.m. to 12-00 noon and thereafter as and when called by the Investigating Officer.

(iii) The applicants shall not tamper with the prosecution

evidence or influence the witnesses.

12. All these criminal applications stand allowed in above terms.

[N.W. SAMBRE, J.]

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