

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

CRIMINAL APPLICATION NO.3248 OF 2016

Ganpat s/o. Ramji Chikate .. Applicant
Age. 57 years, Occ. Service,
R/o. Rajashri Shahu Nagar,
Ambad Road Jalna, Tq. Jalna,
Dist. Jalna.

Versus

The State of Maharashtra & Anr. .. Respondents

Ms. Kavita R. Jamdade h/f. Ms. Maya R. Jamdade, Advocate
for the applicant.
Mr. S.P. Sonpawale, A.P.P. for respondent/State.

CORAM : A.M. BADAR, J.

DATED : 14.10.2016

P.C. :-

1. By this application, the applicant/original complainant is praying for quashing and setting aside order dated 11.05.2016 passed by the learned Sessions Judge, Jalna, in Criminal Misc. Petition (Bail) No.408 of 2016 (Deepak Vs. State), thereby releasing respondent No.2 on anticipatory bail in Crime No.129 of 2016 registered against him with Police Station Kadim, Jalna for offences punishable under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ["the Atrocities Act" for the sake of brevity], under section 3 (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment

Act as well as under section 7 (1) (d) of the Protection of Civil Rights Act, 1955 and under sections 323, 504 and 506 of the Indian Penal Code, by imposing certain conditions.

2. Heard learned Counsel appearing for the applicant. She has argued that the offences punishable the Atrocities Act are prima facie committed by the respondent No.2 and in view of the law laid down by the Hon'ble Supreme Court in the matter of Bachu Das Vs. State of Bihar & Ors., AIR 2014 SC (Supp) 1317, provisions of Section 438 of the Cr.P.C. are not applicable in such offences. Therefore, the order granting anticipatory bail to the respondent No.2 is illegal. Therefore, the same is liable to be quashed and set aside.

3. Learned Counsel for the applicant drew my attention to the F.I.R. of the said crime, which is at Exh."C" , (record page No.32) and contended that the F.I.R. prima facie shows commission of offences under the Atrocities Act and therefore the learned Sessions Judge, Jalna, was not justified in releasing the respondent No.2 on anticipatory bail.

4. I have considered the submissions so advanced.

I have also perused the judgment in the matter of Bachu Das (Supra). In the said matter it is held that when an offence punishable under the Atrocities Act is disclosed, then bar of section 18 of the said Act comes into play. The application for anticipatory bail in such offences cannot be validly entertained.

5. I have also perused the impugned order passed by the learned Sessions Judge granting anticipatory bail. The applicant is in service of Municipal Council, Jalna, whereas the respondent No.2 appears to be the Chief Executive Officer of the said Municipal Council. In the F.I.R. lodged by the present applicant, it is contended that though the complainant is appointed on Class II post, he was required to do work of Class III post deliberately. It is averred that a meeting was called by the President of the Municipal Council and in that meeting of Standing Committee, wrong resolution is passed. This was done at the behest of the accused/ Chief Executive Officer of the Municipal Council. It is further averred that the complainant was compelled to work under the supervision of Class III employee.

6. Perusal of the impugned order passed by the learned Sessions Judge shows that the learned Sessions Judge has considered the entire averments made by the

complainant in his complaint. After considering the entire averments in the complaint, learned Sessions Judge came to the conclusion that prima facie no offence under the Atrocities Act is made out. The judgment of the Hon'ble Supreme Court in the matter of Ramchandra Govind Watkar Vs. State of Maharashtra, 1995 (2) Mh.L.J.669 is relied by the learned Sessions on this aspect for concluding that as no prima facie case under the Atrocities Act is made out, jurisdiction of the Court in entertaining application under section 438 is not ousted.

7. Careful consideration of the F.I.R. vis-a-viz the impugned order does not show that the learned Sessions Judge has committed any error or law while passing the impugned order. Similarly, on facts also the learned Sessions Judge has rightly concluded the matter and there is no scope to hold that the impugned order is perverse.

8. In that view of the matter, the application is devoid of merit and same is rejected.

[A.M. BADAR, J.]