

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

CRIMINAL APPLICATION NO. 3417 OF 2016

Balasaheb s/o Laxman Deshmukh ...Applicant

VERSUS

The State of Maharashtra ...Respondent

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Shri N.B.Narwade, advocate for applicant

Shri S.D.Ghayal, A.P.P. for respondent/State

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CORAM : SMT.SADHANA.S.JADHAV, J.

DATED : 13th JULY, 2016

PER COURT :-

Heard learned counsel for the applicant
and the learned A.P.P. for respondent/State.
Perused the papers of investigation.

2. This is an application under Section 438
of the Criminal Procedure Code. The applicant
herein is apprehending his arrest in Crime No. 180
of 2016, registered at Pathardi police station,

District Ahmednagar, for the offences punishable under Sections 323, 504, 506 r/w 34 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 24.5.2016 Laxman Satpute lodged a report at Pathardi police station alleging therein that one Balasaheb Deshmukh owns agricultural land which is adjacent to the agricultural land of the complainant. That there is a cart way to proceed to the agricultural land of the complainant which passes through the land of the present applicant. That there was obstruction by the present applicant. On 24.5.2016 the applicant is alleged to have abused and humiliated the complainant by referring to his caste. That he had also assaulted the complainant. Subsequently, the complainant was assaulted by the associates of the present applicant.

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4. It appears from the record that there is long standing enmity between the two groups. On 17.4.2016 Abhijit Deshmukh had lodged a report against the complainant. That R.T.C. No. 92 of 2006 is pending between the parties. The papers of investigation, more particularly, the injury certificate would indicate that the complainant Laxman Satpute had sustained 3 simple injuries which were in the nature of blunt trauma and abrasion.

5. Hence, prima facie, it cannot be said that the applicant herein had committed an offence under Section 323 of the Indian Penal Code.

6. As far as the offence under the Atrocities Act is concerned, the learned counsel for the applicant submits that it is an exaggeration of the narration of the incident only to see that the applicant is implicated in a non-bailable offence and taking recourse to Section 18 of the said Act the applicant would be in custody.

7. The learned counsel for the applicant rightly submits that in the given circumstances custodial interrogation is unwarranted and that would expose the applicant to social obligation.

8. Taking into consideration the papers of investigation and the submissions advanced across the Bar this Court is of the opinion that the applicant deserves to be granted pre-arrest bail. Hence the order.

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the Pathardi police station, District Ahmednagar on every Sunday between 10.00 a.m. to 12.00 noon till filing of the charge sheet.

(iii) It is made clear that the observations made herein above are prima facie in nature and restricted to an application under Section 438 of

the Criminal Procedure Code and the same shall not be considered at the time of hearing of a petition seeking quashing of F.I.R., discharge application or at the time of trial.

(iv) Application stands disposed of.

(SMT.SADHANA.S.JADHAV, J.)

dbm/crap3417.16