

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

914 CRIMINAL APPLICATION NO. 4180 OF 2016

BHAGWAT S/O VISHNU SHINDE & ORS.

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. K.B.Jadhav, Advocate for Applicants.

Mr. S.B.Yawalkar, A.P.P. for Resp. – State.

.....

CORAM : A.M.BADAR, J.

DATE : 18th AUGUST, 2016

.....

PER COURT :

1. The applicant/accused in Crime No. 163/2016 registered with Manwat police station, Tq. Manwat, Dist. Parbhani for the offence punishable U/s 3 (1) (x) of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 [for short, 'S.C. & S.T. Act'] and u/ss 341,506 read with 34 of the Indian Penal Code by this application are praying for pre-arrest bail.

2. Heard learned counsel for the applicants. He argued that the offence punishable U/s 3 (1) (x) of the S.C. & S.T. Act is not made out and, therefore, bar of Section 18 is not applicable. Learned counsel argued that the dispute was in respect of right of way and this has impelled the informant to falsely implicate the applicant in crime in question.

3. Learned A.P.P. opposed the application by contending that the application is not maintainable and that there is *prima facie* evidence to connect the applicants to the crime in question.

4. It appears that the Investigating Officer is oblivious to the provisions of the S.C. and S.T. Amended Act of 2015. Be that as it may, perusal of the F.I.R. goes to show that omnibus allegations are made by the informant in order to attract the provisions of the S.C. and S.T. Act. It is also seen that the members of the prosecuting party had committed encroachment on the public way and at the instance of the accused party, revenue officer had initiated appropriate action. In the light of these back-ground facts, the averments in the F.I.R. will have to be considered.

5. Considering the fact, no overt act, except threatening, is alleged against the present applicants and as *prima facie* offence punishable under the provisions of the S.C. and S.T. Act is not made out, custodial interrogation of the present applicants is not warranted and, therefore, the following order.

- (i) The Order dated 03/08/2016 granting ad-interim anticipatory bail to applicant Nos. (1) Bhagwat S/o Vishnu Shinde, (2) Vishnudas S/o Brahmaji Shinde, (3) Kalyanrao S/o Rambhau Shinde and (4) Pandurang S/o Narayanrao Shinde is confirmed on same terms and conditions.
- (ii) In addition, the applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- (iii) The applicants shall not tamper the evidence of the prosecution in any manner.
- (iv) The applicants shall attend concerned police station on every Sunday between 11.00 a.m. and 1.00 p.m. till filing of the charge sheet.

[A.M.BADAR, J.]