

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

**Criminal Application No. 4088 of 2016**

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| District : Nanded |
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1. Gajanan s/o. Govindrao Kadam,  
Age : 25 years,  
Occupation : Agriculture &  
Education,  
R/o. Makani, Taluka : Mukhed,  
District : Nanded.
2. Nandkishor s/o. Balaji Gavhane,  
Age : 27 years,  
Occupation : Agriculture &  
Service,  
R/o. Makani, Taluka : Mukhed,  
District : Nanded.
3. Madhav s/o. Vyankatrao Kadam,  
Age : 43 years,  
Occupation : Agriculture &  
Service,  
R/o. Makani, Taluka : Mukhed,  
District : Nanded.
4. Swapnil s/o. Madhavrao Kadam,  
Age : 23 years,  
Occupation : Agriculture &  
Education,  
R/o. Makani, Taluka : Mukhed,  
District : Nanded.

.. Applicants.

**versus**

The State of Maharashtra  
[Through the Dy. Superintendent  
of Police, At Kandhar,  
District : Nanded.  
Police Station, Mukramabad,  
Taluka : Mukhed,  
District : Nanded]

.. Respondent.

WithCriminal Application No. 4414 of 2016

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| District : Nanded |
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Praveenkumar s/o. Ramrao Gavhane,  
Age : 40 years,  
Occupation : Agriculture &  
Medical Practitioner,  
R/o. Makani, Taluka : Mukhed,  
District : Nanded. .. Applicant.

**versus**

The State of Maharashtra  
[Through the Dy. Superintendent  
of Police, At Kandhar,  
District : Nanded.  
Police Station, Mukramabad,  
Taluka : Mukhed,  
District : Nanded] .. Respondent.

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*Mr. Sachin S. Shinde & Mr. Vijay B. Jogdand Patil,  
Advocates, for applicants.*

*Mrs. P.V. Diggikar, Addl. Public Prosecutor, for  
the respondent.*

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**CORAM : A.M. BADAR, J.****DATE : 22ND AUGUST 2016****ORAL ORDER:**

Applicants in both these applications, who  
are accused in Crime No. 108/2016, for offences  
punishable under Sections 143, 147, 148, 149, 323,

324, 336, 504, 506 of the Indian Penal Code, so also under Section 3(1)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), 1989 [For short, "Atrocities Act"], registered with Mukramabad Police Station, Taluka Mukhed, District Nanded, by these applications are praying for pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. By drawing my attention to the previous private criminal complaint lodged by the informant and its subsequent disposal in view of Pursis filed by the informant, he argued that possibility of false implication of present applicants cannot be ruled out. He argued that no prima facie case for the offence under the Atrocities Act is made out and rest of the offences alleged against present applicants are bailable in nature.

3. The learned Addl. Public Prosecutor opposed applications by contending that version of the informant is gaining corroboration from statements of eye witnesses who are named even in the FIR. She, therefore, contends that in view of bar of Section 18 of the Atrocities Act, applications are not maintainable.

4. Perused papers of investigation. Informant Piraji Gawalwad alleged that initially he requested

the Gramsabha that work of construction of road should be conducted at the locality where persons from backward class resides. Thereafter, according to the informant, becoming angry with such demand of the informant, applicants and co-accused formed unlawful assembly and assaulted him by means of sticks. It is also averred that applicants and co-accused gave abuses to him on the basis of his caste at public place.

5. Interestingly, the FIR itself shows that persons belonging to Scheduled Castes i.e. Mang and Mahar were members of the said unlawful assembly. On the backdrop of this averment in the FIR, further averments regarding giving casteist abuses to the informant at public places will have to be viewed.

6. It is also seen that on earlier occasion, present informant had lodged private criminal complaint against applicants so also the co-accused for the offence punishable under Section 3(1)(x) of the Atrocities Act, Section 7 of the Protection of Civil Rights Act and under Sections 294, 323, 504, 506 read with Section 34 of the Indian Penal Code. After recording verification statement in the said complaint, the learned Judicial Magistrate (F.C.) had issued summons against accused therein. But ultimately, present informant / complainant therein filed a Pursis and withdrew that complaint.

7. On this factual backdrop, prima facie possibility of false implication of present applicants cannot be ruled out. The Court is required to see whether prima facie case is made out to sustain prosecution for offences punishable under the Atrocities Act for invoking the bar of Section 18 thereof. In the case at hand, such averments are omnibus in nature. As such, the bar of Section 18 of the Atrocities Act is not attracted. Rest of the alleged offences are bailable in nature.

8. Hence, I pass the following order :-

(a) Applications are allowed.

(b) Orders dated 5th August 2016 and 12th August 2016, passed in Criminal Application No. 4088 of 2016 and Criminal Application No. 4414 of 2016, respectively, granting ad interim anticipatory bail to applicants, are confirmed on the same terms and conditions.

(c) In addition, applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(6)

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(d) Applicants shall not tamper with the prosecution evidence in any manner.

(e) Applicants shall attend concerned Police Station for the purpose of investigation as and when reasonably called by the Investigating Officer.

9. Applications stand disposed of in the aforesaid terms.

( A.M. BADAR )  
JUDGE

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