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

CRIMINAL APPLICATION NO.4487 OF 2016

1. Rohidas s/o Abarao Saundalkar,
Age : 42 years, Occup. Agril.,
R/o Revki, Tq. Gevrai, Dist. Beed
2. Bhausahab s/o Abarao Saundalkar,
Age : 39 years, Occup. Agril.,
R/o Revki, Tq. Gevrai, Dist. Beed
3. Pappu @ Gajraj s/o Sakham Saundalkar,
Age : 26 years, Occup. Agril.,
R/o Revki, Tq. Gevrai, Dist. Beed
4. Sayyed s/o Subhan Gafoor,
Age : 27 years, Occup. Agril.,
R/o Revki, Tq. Gevrai, Dist. Beed ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr V.D. Sapkal, Advocate for applicants;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 18th November, 2016

ORAL ORDER :

Heard.

2. The applicants apprehend arrest, in connection with C.R. No.279 of 2016, registered at Gevrai police station, for the offences punishable under sections 323, 326, 341, 504 read with section 34 of the Indian Penal Code and section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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3. One Muktaram Avhad is the complainant, who has lodged report dated 20th June, 2016. In the said report, it was stated that the complainant was resident of Nagzari and while going towards Revki, the present applicants accosted him. The complainant was asked as to where he was going, on which he stated that he was proceeding to purchase bricks from one Pandit Gadekar. On hearing the same, according to the complainant, he was assaulted by fists and kicks. He has further stated that petrol was poured on him and applicant no.1 assaulted him with a sword like weapon. On his shouting, his other two colleagues saved him and took him on motorcycle to the police station. It is in that context, that present application has been filed under section 438 of the Code of Criminal Procedure.

4. On behalf of the applicants, it is submitted that the report in question has been lodged merely out of village politics inasmuch as applicant no.1 is a Sarpanch. It is submitted that there were earlier reports lodged against said Pandit Gadekar in F.I.R. No.120 of 2016 as well as F.I.R. No.154 of 2016 with regard to illegal transport of sand. According to the applicants, the applicant no.1 in his capacity as Sarpanch was being doubted by said Pandit Gadekar as the aforesaid action had been taken on the basis of secret information received by the authorities. It is further submitted that the complainant being a resident of some other village, he has been put up by said Pandit Gadekar to settle scores. Reference is further made to the various orders passed in the present proceedings to indicate the ad interim protection granted and the fact that despite co-

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operating with the investigation, it had been stated before this Court that the applicants had violated the conditions imposed by the interim order. It is also submitted that applicant no.3 is employed with the Zilla Parishad, whose services are sought to be put in jeopardy.

5. The application is opposed by the learned Addl. Public Prosecutor by relying upon the police papers. It is submitted that the complainant suffered injuries as per medical certificate dated 13th July, 2016. Reference was made to statements of two witnesses Bramha Magare and Sham Chavan. It is, therefore, submitted that considering these statements the involvement of the applicants is evident. The learned Addl. Public Prosecutor has referred to the affidavit dated 26th September, 2016, filed on behalf of the Deputy Superintendent of Police, in which it has been stated that though the applicants had attended his office on 18th August, 2016 and 19th August, 2016, as he was attending some other duties he was not aware about their presence. He was also not contacted by the applicants.

6. Perused the papers produced by the learned Addl. Public Prosecutor. Perusal of the first information report indicates that according to the complainant, he was accompanied by Shyam Chavan and Bramha Magare when the aforesaid incident took place. After referring to the assault, it has been stated that both these persons separated the complainant from the applicants after which Shyam Chavan took him on motorcycle to the police station. If the statements of Shyam Chavan and

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Bramha Magare are perused, the same indicate that after the complainant was pulled down by the applicants, both of them went away on the motorcycle and waited at a distance. After some time, the complainant came there, where they saw that he was assaulted on his chest and back. They have thus not referred to assault on the complainant by any weapon. This aspect is differently stated in the report lodged by Muktaram Avhad and it is mentioned that after assault by a sword like weapon, he was taken away by Shyam Chavan.

7. The injuries suffered by the complainant appear to be simple injuries from the medico-legal case dated 13th July, 2016. Considering the earlier relations between the applicants and Pandit Gadekar and the fact that there are two earlier reports lodged against said Pandit Gadekar, I feel that in the facts of the present case, the applicants would be entitled for protection.

8. In view of aforesaid, application is allowed.

The ad interim order granted on 11th August, 2016 is confirmed by imposing the same terms and conditions.

In addition, the applicants shall attend the concerned police station as and when directed by the Investigating Officer.

No steps shall be taken to tamper with the material collected by the prosecution.

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Application is allowed in above terms.

(A.S. CHANDURKAR, J.)

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