

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

914 CRIMINAL APPLICATION NO. 4548 OF 2016

YUSUF DASTAGIR MUNDHE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Shrikishan.S.Shinde, Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 1st OCTOBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 45/2011 registered at Gategaon police station, Tq. and Dist. Latur for the offences punishable u/ss 143, 452, 354, 323, 504, 506 read with 34 of the Indian Penal Code and u/s 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989, by this application is praying for releasing him on bail.

2. Heard the learned counsel for applicant/accused. He argued that the applicant was never absconded but he was not even aware about the registration of crime against him. Ultimately, he is arrested in some other crime and also in the

instant crime. Thereafter, he came to know about registration of the instant crime.

3. The learned A.P.P. opposed the application by contending that there is no assurance that in future the applicant would be available for trial. According to the learned A.P.P., on many occasions warrants were sent to present applicant, but those were not executed on the ground that present applicant is not residing in the village.

4. Perused the charge sheet. Initially, on the date of incident itself, the informant had lodged report of commission of non cognizable offence. After about 27 days, she lodged report alleging outraging her modesty by stating in her report that on 30/06/2011, co-accused Sonya Ashok Bhadange came inside her house and started outraging her modesty. She averred that 2 accused persons were standing outside her house. She named present applicant as one of those accused persons. Further averments in this F.I.R. itself are to the effect that present applicant has also entered in her house and embarrassed her outraging her modesty.

5. My attention is drawn to the supplementary statement recorded after about 4 months, wherein she has absolved other co-accused. With this evidence against present applicant, I am of the opinion that his pre-trial detention in the crime in question is not warranted. So far as apprehension of the learned A.P.P. about non availability of the applicant for trial is concerned, the same can be taken care of by imposing

appropriate condition. Hence, the following order.

- (i) The application is allowed.
- (ii) Applicant Yusuf Dastagir Mundhe in Crime No. 45/2011 registered at Gategaon police station, Tq. and Dist. Latur for the offences punishable u/ss 143, 452, 354, 323, 504, 506 read with 34 of the Indian Penal Code and u/s 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989 be released on bail on executing P.R. Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant 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.
- (iv) The applicant shall not tamper the evidence of the prosecution.
- (v) The applicant shall attend each and every date of hearing fixed before the trial Court and shall co-operate the trial Court in the expeditious disposal of trial against him.

[A.M.BADAR, J.]