

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

Criminal Application No. 4568 of 2016

District : Ahmednagar

Nilesh @ Bhaiya Vijay Gawade,
Age : 30 years,
Occupation : Agriculture,
R/o. Baradgaon Sudrik,
Taluka : Karjat,
District : Ahmednagar.

.. Applicant.

versus

The State of Maharashtra.

.. Respondent.

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Mr. A.A. Nimbalkar, Advocate, for the applicant.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 16TH SEPTEMBER 2016

ORAL ORDER:

Heard the learned Counsel for the applicant / accused. He submitted that the FIR itself reflects that false complaint is lodged on account of evading repayment of amount taken as advance.

2. The learned Addl. Public Prosecutor opposed

the application by contending that the FIR itself shows that there was quarrel and the applicant had hurled casteist abuses to the informant.

3. Perused papers of investigation including the FIR lodged by informant Dattatray s/o. Haribhau Sathe. The informant is doing work as labourer. FIR reveals that Akshay, who is son of the informant, was engaged as yearly labourer by the present applicant for working at his field. In the FIR itself, the informant had made an averment that they had taken advance of Rs. 39,000/- from the present applicant towards wages for working as a yearly labourer. The FIR also shows that this contract came to be frustrated as Akshay stopped working in the field of the informant since last two months. FIR further shows that the present applicant had met the informant on 20.07.2016 and demanded back the amount of advance given towards wages of Akshay. Over this issue, quarrel ensued between the applicant and informant Dattatray Sathe. Omnibus statement is made by the informant that the applicant hurled casteist abuses during that quarrel. Witnesses who were present on the spot are not supporting this averment. Therefore, no prima facie case for the offence punishable under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, is made out. Bar of Section 18 of the said Act as such is not applicable.

4. So far as offences under the provisions of the Indian Penal Code are concerned, they are bailable.

5. In this view of the matter, custodial interrogation of the present applicant is not warranted.

6. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the event of his arrest in Crime No. I-172/2016 for offences punishable under Sections 323, 504, 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act, 1989, registered with Police Station, Karjat, District Ahmednagar, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directions :-

(i) The applicant / accused shall attend concerned Police Station on 21st September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably

called by the Investigating Officer for the purpose of investigation, till filing of charge-sheet. The applicant shall cooperate the Investigating Officer in investigation of the crime in question.

(ii) The applicant 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.

(iii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, in future against him.

(iv) The applicant shall not repeat commission of similar type of offences in future.

9. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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