

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

926 CRIMINAL APPLICATION NO. 5127 OF 2016

**BABULAL S/O KASHIRAM MALI
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. D.S.Bagul, Advocate for Applicants.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 30th SEPTEMBER, 2016

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PER COURT :

1. The applicants, who are accused in Crime No. 128/2016 registered at Sakri police station, Dist. Dhule for the offences punishable U/ss 295,506 read with 34 of the Indian Penal Code and u/s 4 (1) (r) (s) (t) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015 [for short, 'S.C. and S.T. Act'], by this application are seeking pre-arrest bail.

2. Heard the learned counsel for applicants/accused.

He argued that the averments for the offence punishable u/s 4 (1) (r) (s) (t) of the S.C. and S.T. Act are principally directed against co-accused Kanhailal Mali. Passing observations are made against present applicants in the F.I.R. without any details. The learned counsel further argued that the F.I.R. itself shows that the applicants are not concerned with the crime in question.

3. The learned A.P.P. opposed the application by submitting that the application for pre-arrest bail can not be entertained in view of bar of Section 18 of the S.C. and S.T. Act. He further argued that the names of present applicants are categorically mentioned in the F.I.R. itself dis-entitling them from any relief.

4. Perused papers of investigation including F.I.R. lodged by Sharad Popat Desale. He claims to be President of Eklavya Adivasi Yuva Sanghatana, Maharashtra, branch Dahivel. According to the informant, by use of JCB machine, contractor Kanhailal Shravan Mali and Lalit Shimpi, operator of said machine have uprooted the board of Eklavya Adivasi Yuva Sanghatana erected at Yogesh colony. It is averred that then Kanhailal Shravan Mali gave caste abuses to the informant when informant took exception to the above act. It is averred that present applicants, in past, had abused informant on caste.

5. Perusal of the F.I.R. itself goes to show that work of road was going on and in the process of doing that work

by JCB, the board of the said Sanghatana was uprooted. In fact, there was no business for the informant to erect the board on the public place. It appears that the same was uprooted while doing work of public interest. So far as present applicants are concerned, they does not appear to be concerned in any way for uprooting the board. The allegations against them are omnibus without giving details and description. *Prima facie*, no offence under the provisions of the S.T. and S.T. Act is made out and, therefore, bar of Section 18 is not applicable in their case.

6. In this view of the matter, the application needs to be allowed. Hence, the following order.

(i) The application is allowed.

(ii) The Order dated 15/09/2016 granting ad-interim anticipatory bail is confirmed on the same terms and conditions.

[A.M.BADAR, J.]