

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

CRIMINAL APPLICATION NO. 5182 OF 2016

1. Sachin s/o. Sonyabapu Shinde .. Applicants
Age. 31 years, Occ. Agriculture,
R/o. Varshinde, Tq. Rahuri,
Dist. Ahmednagar.
2. Komal Sachin Shinde
Age. 28 years, Occ. Household,
R/o. Varshinde, Tq. Rahuri,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr.S.S. Jadhavar, Advocate for the applicants.
Mr.S.P. Sonpawale, APP for respondent/State.

CORAM : A.M. BADAR,J.
DATED : 03.10.2016

P.C. :-

1. At the outset, learned Counsel for applicants submits that he is not pressing application so far as applicant No.1-Sachin s/o. Sonyabapu Shinde is concerned. Therefore, application of applicant No.1-Sachin s/o. Sonyabapu Shinde is disposed of as withdrawn.

2. Applicant - Komal Sachin Shinde - an accused in Crime No.I-326 of 2016, registered with Rahuri Police

Station, Tq. Rahuri, Dist. Ahmednagar, for the offences punishable under sections 307, 325, 141, 143, 147, 149 of the Indian Penal Code, under sections 3(1) (X), 3 (2)(V) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act ("the Atrocities Act" for the sake of brevity) and under section 7 (1) (D) of the Protection of Civil rights Act, by this application is seeking pre-arrest bail.

3. Heard learned Counsel appearing for applicant - Komal. By pointing out first version of the incident, coming from the mouth of injured informant, learned Counsel argued that supplementary statement of the informant is full of embellishments. Learned Counsel further argued that even the first version of the incident which took place on 13.08.2016 came to be recorded on 14.08.2016 and therefore, the injured had ample opportunity to recollect the facts and therefore if subsequent improvements are ignored, then no offence under the Atrocities Act is made out. As such bar of section 18 is not applicable to the case in hand.

4. Learned A.P.P. opposed the application by contending that there is eye-witness to the incident in question. Learned A.P.P relied on statement of Chhabubai to point out the mode of happening of the incident.

5. I have also heard learned Counsel appearing for the informant. By taking me through discharge card of the informant, learned Counsel argued that informant had suffered bilateral elbow dislocation. Learned Counsel for the informant further argued that the informant is an illiterate person and his thumb impression was taken on his first statement. Therefore, he does not know what is scribed therein. Subsequently, the informant has given his detailed statement. Therefore, application of applicant – Komal is also liable to be rejected.

6. I have carefully considered rival submissions and perused record of investigation. Neither in his first statement nor in his supplementary statement, the informant states that his mother Chhabubai was accompanying him. However, said Chhabubai in her statement is stating that she was accompanying her son Bhausahab – informant. At the time of the incident in question, neither informant Bhausahab nor his mother Chhabubai are stating in their first version about the incident regarding any offence under the Atrocities Act. The version of both these witnesses recorded firstly does not attribute any overtact to applicant – Komal. No weapons are attributed to accused persons in these first versions of the incident. In this view of the matter,

prima facie, it cannot be said that the applicant had participated in the incident in question with common object. Therefore, she is entitled for pre-arrest bail. Therefore, the order :-

O R D E R

i. The application is allowed.

ii. In the event of her arrest in Crime No.I-326 of 2016, registered with Rahuri Police Station, Tq. Rahuri, Dist. Ahmednagar, for the offences punishable under sections 307, 325, 141, 143, 147, 149 of the Indian Penal Code, under sections 3(1) (X), 3 (2)(V) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and under section 7 (1) (D) of the Protection of Civil rights Act, applicant – Komal Sachin Shinde be released on bail on executing P.R. Bond of Rs.15000/- (Rupees Fifteen Thousand) and on furnishing surety in 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 to the Court.

iv. The applicant shall not tamper the evidence of the prosecution.

v. The applicant shall attend concerned police station as and when reasonably called for the purpose of investigation.

[A.M. BADAR, J.]