

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

Criminal Application No. 5281 of 2016

District : Dhule

1. Santosh Sakharam Sonawane,
Age : 42 years,
Occupation : Agriculture.
2. Sanjay Sakharam Sonawane,
Age : 40 years,
Occupation : Agriculture.
3. Kiran Dagdu Sonawane,
Age : 18 years,
Occupation : Education.

All R/o. Anjanvihre,
Taluka : Shindkheda,
District : Dhule.

.. Applicants.

versus

1. The State of Maharashtra,
Through Police Station Officer,
Dondaicha Police Station,
Dondaicha,
Taluka : Shindkheda,
District : Dhule.

2. Superintendent of Police,
Dhule,
Taluka & District : Dhule.

.. Respondents.

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*Mr. A.R. Syed, Advocate, holding for
Mr. S.P. Brahme, Advocate, for applicants.*

*Mrs. P.V. Diggikar, Addl. Public Prosecutor,
for respondent nos.1 and 2.*

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CORAM : A.M. BADAR, J.

DATE : 10TH OCTOBER 2016

ORAL ORDER:

Applicants are accused in Crime No. 111/2016 for offences punishable under Sections 341, 323, 504, 506, read with Section 34 of the Indian Penal Code, under Sections 3(1)(x) & 3(7)(d) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 [For short, "Atrocities Act"], and under Section 7(1)(d) of the Protection of Civil Rights Act, registered with Police Station, Dondaicha, Taluka Sindkheda, District Dhule. By the present application, they are claiming pre-arrest bail.

2. Heard the learned Counsel appearing for applicants / accused. He argued that perusal of the FIR lodged on the day of the incident would show that there are no averments regarding commission of offence punishable under the Atrocities Act or under the Protection of Civil Rights Act, against present applicants. Therefore bar of Section 18 of the Atrocities Act is not applicable. He argued that rest of alleged offences are bailable in nature.

3. The learned Addl. Public Prosecutor opposed the application by submitting that statements of several eye witnesses goes to show that present applicants abused the informant as well as other members of a Scheduled Caste by caste name in public view and thereby intentionally insulted with an intention to humiliate members of Scheduled Caste in public view.

4. Perused papers of investigation including the FIR lodged on 22.08.2016 by Vatchhalabai Bhimrao Nagmal. The incident in question, so far as present applicants are concerned, allegedly took place at about 06.00 p.m. of 22.08.2016. The FIR thereof was lodged instantaneously. According to the prosecution case, in the afternoon there was discussion in the premises of the Grampanchayat as who has removed poster of Dr. Babasaheb Ambedkar from the office of the Grampanchayat. At that time, according to the prosecution case, main accused Dagdu Sonawane came and abused members of Scheduled Caste in caste name. It is further averred that he has assaulted persons gathered there, including the informant. Then according to the prosecution case, members of the prosecuting party started proceeding towards the Police Station for compromising the matter. At this stage, role of applicants before the Court comes. According to the prosecution case, when members of

the prosecuting party were proceeding towards the Police Station by a four wheeler vehicle, all applicants pelted stones on that vehicle and abused members of the prosecuting party. This is the first version of the incident reported by informant Vachhalabai Nagmal immediately after the incident to the Police. In this first version of the incident, there are no averments regarding intentional insult or intimidation with an intent to humiliate members of a Scheduled Caste within public view nor there are allegations regarding abuses to members of Scheduled Caste in caste name within public view.

5. In this factual backdrop, it is seen that on the very next day, other members of the prosecuting party in their statements under Section 161 of the Code of Criminal Procedure, averred that when they were proceeding to Police Station in four wheeler vehicle, all applicants pelted stones on that vehicle and by accosting that vehicle, they abused members of the prosecuting party by caste name. This is substantial improvement over the prosecution case subsequently. There is nothing in papers of investigation to show that there was incident of stone pelting of four wheeler vehicle. Panchanama of so called four wheeler vehicle to demonstrate that there was pelting of stones is not found in papers of investigation. As per first version, there are no allegations about commission of offence under the

Atrocities Act against applicants. In this view of the matter, I am of the opinion that no prima facie case for the offence punishable under the Atrocities Act is made out against present applicants. Therefore bar of Section 18 of the said Act is not applicable.

6. Other offences leveled against applicants are under Sections 341, 323, 504, 506, read with Section 34 of the Indian Penal Code. Prima facie there is no evidence to show that there was incident of stone pelting.

7. In this view of the matter, custodial interrogation of present applicants is not warranted.

8. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The order dated 1st October 2016, granting ad interim anticipatory bail to applicants, is confirmed on same terms and conditions.

(c) In addition, applicants shall attend the concerned Police Station on 16th October 2016 in between 11.00 a.m. and 01.00 p.m. and to cooperate with the investigator.

(d) The Application stands disposed of in the above terms.

(A.M. BADAR)
JUDGE

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