

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

CRIMINAL APPLICATION NO. 5647 OF 2016

1. Pritee w/o. Sandeep Sidhewar, .. Applicants
Age. 30 years, Occ. Household,
R/o. Karanji, Tq. Mahoor,
Dist. Nanded.
2. Nandkishor s/o. Balwantrao Sidhewar,
Age. 40 years, Occ. Agri,
R/o. Karanji, Tq. Mahoor,
Dist. Nanded.
3. Swati w/o. Nandkishor Sidhewar,
Age. 35 years, Occ. Household,
R/o. As above.

Versus

The State of Maharashtra .. Respondent

Mr. Pratap P. Mandlik, Advocate for applicants.
Mr. S. J. Salgare, APP for respondent/State.

**CORAM : A.M. BADAR, J.
DATED : 20.10.2016**

P.C. :-

1. Learned Counsel for applicants seeks leave to produce F.I.R. of Crime No.47 of 2016 on record. Leave granted.

2. Applicants/accused in Crime No.45 of 2016, registered with Sindkhed Police Station, Tal. Kandhar, Dist. Nanded, for offences punishable under section 143, 323, 341, 504, 506 read with section 34 of the Indian Penal Code and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ("the Atrocities Act" for the sake of brevity), by this application are seeking anticipatory bail.

3. Heard learned Counsel appearing for applicants/accused. He argued that applicants are falsely implicated in the crime in question because of political rivalry in village Karanji. Learned Counsel argued that before this incident, in-fact, there was threat of false implication of applicants at the instance of the informant and therefore this fact was intimated by husband of applicant No.1 to police on 17.08.2016. Learned Counsel further relied on F.I.R. of Crime No.47 of 2016, registered at the instance of Buchanna Sainwar.

4. Learned A.P.P. opposed the application by contending that the allegations in respect of offence punishable under the Atrocities Act are against all accused and apart from the informant two witnesses are supporting the prosecution case.

5. Perused papers of investigation. The F.I.R. of the instant crime was registered at the instance of informant Vijay Kotturwar. He alleged that after installation of idol of Ganesh in the village, he had been to pendol for paying obeysence and while returning at about 9.00 a.m., accused persons including the present applicant caused intentional insult and humiliation to him by abusing in the cast name. It is further reported that applicant No.1 – Pritee and applicant No.3 – Swati subsequently came and gave rope in hands of co-accused and asked them to tie the informant by *patari* by abusing the informant in the caste name. Similar are statements of Dnyaneshwar and Istari. According to the prosecution case, informant Vijay belong to *Madgi* caste falling in scheduled caste. It is seen from annexures to the application that both parties are on cross terms. On the very same day, another informant, namely, Buchanna had lodged similar report against about 18 persons alleging offence under the Atrocities Act. It has resulted in registration of crime No.47 of 2016. According to learned Counsel for applicants, this Buchanna is belonging to the group of applicant No.2-Nandkishor. Perusal of both these F.I.Rs. goes to show that there are two groups in the village Karanji, which are on hostile terms.

6. On this backdrop, it is seen that about 20 days earlier, Sandip Sidhewar, husband of applicant No.1 lodged report to Sindhkhed Police Station, informing that the informant in this case, namely, Vijay and his associates had assaulted him as well as Buchanna (informant in Crime No.47 of 2016), so also to Vinod Garnule. In this report dated 17.08.2016, the husband of applicant No.1-Pritee further reported that thereafter present informant Vijay Kotturwar and his two sons extended threat to them that they will be falsely implicated in the offence punishable under the Atrocities Act. It is seen that within twenty days i.e. on 06.09.2016, Vijay lodged report against present applicants as associates of husband of applicant No.1-Pritee had lodged report against other persons in the village vide crime No.47 of 2016 alleging similar offence.

7. On this backdrop, I am of the considered view that no prima facie case for the offence under the Atrocities Act is made out. Considering the averments against the present applicants, their custodial interrogation as such is not warranted. Hence, order :-

O R D E R

i. The application is allowed.

ii. In the event of their arrest in Crime No.45 of 2016, registered with Sindkhed Police Station, Tal. Kandhar, Dist. Nanded, for offences punishable under section 143, 323, 341, 504, 506 read with section 34 of the Indian Penal Code and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, applicants – Pritee w/o. Sandeep Sidhewar, Nandkishor s/o. Balwantrao Sidhewar and Swati w/o. Nandkishor Sidhewar be released on bail on executing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand) and on furnishing surety in like amount, by each of them.

iii. As a condition of this order, applicants 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. Applicants shall not tamper the evidence of the prosecution.

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

vi. Applicants shall not repeat commission of any offence in future.

[A.M. BADAR, J.]