

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

**CRIMINAL APPLICATION NO. 5804 OF 2016**

Pranav S/o Vijay Uttarwar,  
Age : 19 years, Occu. : Education,  
R/o : Kumbhargalli, Kinwat,  
Tq. Kinwat, Dist. : Nanded .. Applicant  
(Orig. Accused)

Vs.

The State of Maharashtra  
Through Police Station, Kinwat .. Respondent

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Mr. Ganesh P. Shinde, Advocate for the applicant  
Mr. S.D. Ghayal, APP for the respondent/State  
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**CORAM : A.S. CHANDURKAR, J.**  
**DATE : 29/11/2016**

**ORAL ORDER :**

Heard.

2. The applicant apprehends his arrest in connection with Crime no.198 of 2016 registered at Kinwat Police Station, Dist. Nanded for the offences punishable under Section 294, 504, 323 of the Indian Penal Code and under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "**the Act of 1989**").

3. As per the report dated 25/9/2016 given by the informant, the applicant had abused her and her daughters on 17/9/2016. The applicant was given an understanding by his parents. Thereafter, on 18/9/2016, at about 2:30 pm, the informant was abused in the name of her caste and her elder daughter was slapped while younger daughter was pushed. On this basis, aforesaid offence came to be registered.

4. It is submitted by learned counsel for the applicant that though the alleged incident is dated 18/9/2016, the report in question is lodged on 25/9/2016 without explaining the reasons for delay. It is submitted that applicant's father is also running a grocery shop near the vicinity where the informant is also running a grocery shop. It is submitted that offence under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not made out, as there was no assault as alleged. It is submitted that applicant is a student and his arrest would prejudice his career.

5. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers. He has referred to statement of one Anil Simitwar as well as statement of the informant. He therefore submits that the present applicant is not entitled for protection.

6. Perused the police papers alongwith the FIR. The incident dated 18/9/2016 is stated to have occurred at 2:30 pm, however, report in that regard is given on 25/9/2016 and the offence is registered on 26/9/2016 at 00:50 hrs. Considering the fact that the applicant's family as well as family of the informant are running grocery shops and there being no explanation in the said report, as to why the same was given after almost 7 days, the statement of the informant appears to be exaggerated. It is normally not expected that for a period of 7 days, report will not be lodged when there are allegations of abuses in the name of caste. Hence, *prima facie*, the bar under Section 18 of the Act of 1989 does not appear to be attracted. At the same time, the applicant can be put to conditions while he is being protected.

7. Hence, the following order:-

**ORDER**

I) The Application is allowed.

II) In the event of applicant's arrest in connection with Crime No. 198 of 2016 registered at Kinwat Police Station, Dist. Nanded for the offences punishable under Section 294, 504, 323 of the Indian Penal Code and under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he shall be released on bail, upon executing P.R. bond of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

III) The applicant shall not enter the limits of Kinwat Tehsil, Dist. Nanded, till the filing of the chargesheet.

IV) The applicant shall attend the concerned Police Station on 03/12/2016 and, thereafter, as per the directions of the Investigating Officer.

V) The applicant shall not attempt to influence the prosecution witnesses.

8. Observations made in this order are only for the purposes of considering the present Application.

9. Criminal Application is accordingly allowed and disposed of.

**[A.S. CHANDURKAR]**  
**JUDGE**

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