

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

CRIMINAL APPLICATION NO. 5867 OF 2015

1. Shivaji @ Shivram Appaji Jasud,
Age : 35 years, Occu. Agril.
2. Sangita Shivram Jasud,
Age : 34 years, Occu. Household.
3. Subhadra Appaji Jasud,
Age : 58 years, Occu. Household.
4. Appaji Manaji Jasud,
Age : 65 years, Occu. Agril.
5. Haribhau Manaji Jasud,
Age : 53 years, Occu. Agril.
6. Bapusaheb Namdeo Gunjal,
Age : 59 years, Occu. Agril.
7. Baban Gahinaji Gunjal,
Age : 52 years, Occu. Agril.

All R/o. Daithane Gunjal,
Tq. Parner, Dist. Ahmednagar.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr R. R. Karpe, Advocate for the applicants
Mr K. D. Munde, APP for respondent/State
.....

CORAM : **N. W. SAMBRE, J.**
DATE : **12TH JANUARY, 2016.**

PER COURT:

. By this application, the applicants herein are seeking pre-arrest
bail in Crime No. I-349 of 2015 registered with Parner Police Station,

Tq. Parner, Dist. Ahmednagar, for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and Sections 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short “the Atrocities Act”). The incident in question has taken place on 7th October, 2015 in the morning at 7.00 a.m.

2. The prosecution story in brief is that, the complainant, his wife and son namely; Akash were assaulted by all the applicants and further hurled caste-based abuses at them, which has prompted the complainant to lodge a complaint against the applicants invoking provisions of the Atrocities Act.

3. Shri. Karpe, the learned counsel for applicants while trying to make out a case for grant of pre-arrest bail, has invited my attention to N.C. No. 281 of 2015 dt. 29th April, 2015 registered for the offences punishable u/s 323, 504 and 506 of the IPC, the complaint in relation to missing of brother of applicant No. 1 namely; Sambhaji, N.C. No. 1028 of 2015 registered on 2nd October, 2015 registered for the offences punishable under Sections 427, 323, 504 and 506 of the IPC against the complainant and his family members and N.C. No. 1047 of 2015 dt. 7th October, 2015 registered for the offences punishable under Sections 323, 504 and 506 of the IPC. According to him, in this background, false implication of the applicants in the crime in question cannot be ruled out. According to him, but for the offence under Section 324

of the IPC, rest of the offences are bailable.

4. Learned Counsel for the applicants then would urge that, there are omnibus accusations against all the applicants as regards caste-based abuse and in such cases the provisions of Atrocities Act cannot be invoked. He has drawn support from the judgments of this Court in the cases of **Sarita Shyam Dake Vs. Sr. Police Inspector, Mumbai and others** reported in 2008(3) Mh.L.J. 385 and **Shahsikant Ramhari Tambe & Ors. Vs. State of Maharashtra** reported in 2008 ALL M.R. (Cri) 2132. According to him, the false implication of the applicants could be inferred particularly having regard to the accusations against the accused Appaji, who is aged about 65 years, that he has attacked Akash by means of knife on his forehead, head and below eye and caused injuries.

5. The ld. APP opposed the bail application on the ground that there are grievous injuries caused to the complainant and his family members. He would then urge that, the present application is not tenable in view of the bar u/s 18 of the Atrocities Act.

6. Having bestowed my thoughts to the submissions made, it is to be noted that but for the provisions of Section 18 of the Atrocities Act and Section 324 of the Indian Penal Code, rest of the offences are bailable.

7. The N.Cs. recorded by the police authorities speaks of previous enmity between the complainant and the present applicants. Apart from the above, the sweeping allegations against the applicants as regards caste-based abuse are also required to be discarded as it is unbelievable that all the accused persons have roped in such offence, at least no individual role is attributed to each of the applicants.

8. In this background, false implication of the applicants cannot be ruled out. In view thereof, it will be appropriate, in my opinion, to order release of the applicants on bail. Hence, I proceed to pass the following order.

ORDER

- (i) In the event of arrest of the applicants Shivaji @ Shivram Appaji Jasud, Sangita Shivram Jasud, Subhadra Appaji Jasud, Appaji Manaji Jasud, Haribhau Manaji Jasud, Bapusaheb Namdeo Gunjal and Baban Gahinaji Gunjal in Crime No. I-349 of 2015 registered with Parner Police Station, Tq. Parner, Dist. Ahmednagar, for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and Sections 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on bail on their furnishing PR bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) each, with one surety in the like amount.

- (ii) The applicants shall attend the concerned Police Station everyday from 18th to 19th January, 2016 between 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.
9. Criminal Application stands allowed in above terms.

[N. W. SAMBRE]
JUDGE

sgp