

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6035 OF 2016

1] Sandip Pratap Mahale,
 Age : 35 years, Occu.: Agriculturist

2] Ameet Pratap Mahale,
 Age : 33 years, Occu.: Agriculturist

Both R/o Lane No.4, Near
 Mirchi Bajar, Dhule
 District Dhule

3] Yatin Manikrao Jadhav,
 Age : 28 years, Occu.: Business

4] Vishal Manikrao Jadhav,
 Age : 39 years, Occu.: Labour,

Applicant nos.3 and 4
 R/o. 65, Bhaiji Nagar,
 Dhule, District Dhule

.. Applicants

Vs.

The State of Maharashtra
 Through the Police Inspector,
 Dhule Taluka Police Station,
 Tq. and District Dhule

.. Respondent

Mr. V.D. Hon, Sr. Advocate h/f. Mr. A.V. Hon, Advocate for
 the applicants

Mr. P.B. Pawar, Advocate to assist APP

Mr. V.M. Kagne, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 17/11/2016

ORAL ORDER :

Heard.

2. The applicants apprehend their arrest in connection with crime no.235 of 2016 registered at Dhule Taluka Police Station, Dist. Dhule for the offences punishable under section 395, 441 of the Indian Penal Code r/w. Section 4(1)(R)(S) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 7(1)(iii) of the Protection of Civil Rights Act.

3. The present Application arises out of crime no.235 of 2016 registered at the instance of one Prashant Wagh vide report dated 17/8/2016. As per said report, on 16/8/2016, between 11.30 am to 12.00 noon, while the complainant was going towards his village, there was some altercation with the present applicant nos.1 to 3 with regard to user of Gat No.18 belonging to the complainant's mother. The applicants were alleged to have abused the complainant by his caste and the cash as well as his gold ring was stolen. It is stated that the matter was then amicably settled between the parties and hence no report was lodged. However, as the applicant no.3 had still lodged a

report against the complainant, the aforesaid incident came to be recorded being Crime No.235 of 2016. On the basis of same incident, applicant no.3 herein had already lodged FIR No.234 of 2016 against Prashant Wagh and others.

4. On the same day, present complainant—Prashant Wagh had lodged another report bearing FIR no.179 of 2016 against the present applicant nos.1, 2 and others with regard to abuses given by one of the accused. Thus, on 17/8/2016, three reports came to be lodged, two by Prashant Wagh and one by the applicant no.3 herein.

5. It may be mentioned that with regard to crime nos. 234 of 2016 and 235 of 2016, both the parties had approached this Court for seeking grant of anticipatory bail. Criminal Application Nos.5766 of 2016 and 5800 of 2016 came to be decided on 21/10/2016, allowing both the applications.

6. In the aforesaid background, it is submitted by Shri Hon, learned Senior counsel for the applicants that the incident in question alleged to have occurred in the morning on 16/8/2016 was sought to be settled

and only after getting knowledge of lodging of FIR no.234 of 2016 by applicant no.3, the present FIR has been filed. It is submitted that the observations made in the order dated 21/10/2016 passed by this Court taking the prima facie view that there was no robbery committed, deserves to be accepted. It is further submitted that all other accused in crime no. 234 of 2016 are now enjoying protection. It is also pointed out that though the applicant no.1 stands convicted in another offence by the Sessions Court, his appeal is pending before this Court which has granted him bail. It is therefore submitted that applicants herein are also entitled for similar treatment.

7. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers. It is submitted that considering the statements made in the FIR, involvement of the present applicants is evident and hence for the purpose of proper investigation, their custody is necessary. It is further submitted that applicant no.1 was tried for the offence punishable under section 302 of the Indian Penal Code and has been convicted by the Sessions Court. Similarly, insofar as applicant no.3 is

concerned, the subsequent report being crime no.196 of 2016 has been lodged against him. It is therefore submitted that considering the antecedents of these applicants, they are not entitled for protection.

8. Learned counsel for the complainant while assisting the prosecution has supported the contentions urged on behalf of the State and has made similar request that the relief does not deserve to be granted.

9. After hearing the respective parties and after perusing the case papers alongwith the observations made in the order dated 21/10/2016 passed by this Court while allowing prayer for grant of anticipatory bail to the accused in both the crimes, I find that the present applicants would also be entitled for similar relief. In paragraph no.10 of the aforesaid order, this Court has prima facie observed that the incident of robbery was doubtful and that if the complainant in FIR no. 235 of 2016 would have been abused by his caste, he would not have settled the matter. These observations support the case of the applicants herein.

10. Considering the antecedents of applicants no.1 and 3 herein, however some additional conditions are required to be imposed on them.

11. In view of aforesaid, the following order is passed :-

(I) The Application is allowed.

(II) In the event of arrest of the applicants, in furtherance of crime no. 235 of 2016 registered at Dhule Taluka Police Station, Dist. Dhule, they shall be released on bail on executing P.R. bonds of Rs.15,000/- (Rs. Fifteen Thousand) each with one surety each in the like amount by each of them.

(III) Applicant nos.1 and 3 except when complying with direction no.(IV) herein, shall not enter the limits of Dhule City and village Morane, till the investigation is completed and chargesheet is filed against them.

(IV) The applicants shall attend the concerned Police Station on 23/11/2016 and, thereafter, as per

the directions of the Investigating Officer.

(V) The applicants shall not take any steps to tamper with the material collected by the prosecution.

12. The Application is accordingly allowed and disposed of in the above terms.

Sd/-

[A.S. CHANDURKAR]
JUDGE

arp/