

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6240 OF 2016

1] Madhav S/o Balaji Bhangе,
Age : 25 years, Occu.: Labour,

2] Vitthal S/o Premrao Ananddas,
Age : 34 years, Occu.: Labour,

3] Digambar S/o Nagorao Wadaje,
Age : 40 years, Occu.: Labour,

All R/o Tirupati Nagar, Dhanegaon,
Tq. & Dist. Nanded

.. Applicants

Vs.

The State of Maharashtra,
Through Police Station,
Nanded Gramin, Tq. & Dist. Nanded

.. Respondent

Mr. Anand I. Deshmukh, Advocate for the applicants
Mr. R.V. Dasalkar, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 15/12/2016

ORAL ORDER :

Heard.

2. The applicants, who have been arrested on 15/10/2016, in connection with Crime no.335 of 2016 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 143, 147, 148, 452, 427, 323 of the Indian Penal Code and

Section 3(1)(r)(s)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seek their release on bail.

3. As per the FIR dated 15/10/2016, the informant has stated that the applicants alongwith one Balaji Bhangе had come to her house and had given her threats and abuses in the name of her caste so as to get the premises vacated. It is stated that she was also assaulted in the process due to which she received injuries. Present applicants were arrested on the same day.

4. It is submitted by learned counsel for the applicants that the dispute between the parties is with regard to possession of plot no. 124 situated at Tirupati Co-operative Housing Society. It is submitted that on 13/7/2015, the informant – Smt. Kalinda Barude had agreed to sale the said plot to one Balaji Bhangе and had executed an agreement in that regard. The possession was agreed to be handed over on 31/8/2015. Subsequently, said Balaji Bhangе consented for transferring said plot in the name of wife of applicant no.2. This document is dated 22/12/2015 and the same is

with the consent of the society. It is submitted that till today, the informant has not handed over possession and hence false case has been lodged. It is then submitted that the allegation regarding giving of abuses in the name of caste are general in nature and are not attributed to any particular accused. It is submitted that in this backdrop, the applicants deserve to be released on bail.

5. The application is opposed by learned Additional Public Prosecutor by relying upon the statements recorded. It is submitted that the applicants have tried to forcibly evict the informant and have also abused her in the name of caste. Therefore, no case has been made out to release them on bail.

6. Perused the documents filed on record alongwith the FIR. In the document executed between the informant and said Balaji with regard to sale of plot no.124, time was granted to her to vacate the same, but it appears that same was not being vacated. There is further transaction between said Balaji Bhangre and wife of applicant no.2.

7. Perusal of the FIR and statements recorded indicates that the same does not specifically attribute abuses being given by any particular accused person. Though there are four accused persons, it has been stated that all of them have uttered the same abuses. The injuries suffered by the informant as per certificate dated 15/10/2016 are simple in nature. Considering the aforesaid aspects, I find that applicants are entitled for being released on bail, subject to conditions.

8. In view of above, the following order :-

ORDER

I) The applicants, who have been arrested in connection with Crime no.335 of 2016 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 143, 147, 148, 452, 427, 323 of the Indian Penal Code and Section 3(1)(r)(s) (t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are directed to be released on bail, upon each of them furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II) The applicants shall attend the concerned Police Station on 23/12/2016 and, thereafter, as per the directions of the Investigating Officer.

III) They shall not any steps whatsoever to influence the informant or to take forcible possession of the property in question.

IV) They shall co-operate in the investigation.

9. By clarifying that the observations made in this order are only for deciding the bail Application, the same is accordingly allowed and disposed of.

Sd/-

[A.S. CHANDURKAR]
JUDGE

arp/