

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

CRIMINAL APPLICATION NO.6307 OF 2016

Sudhir s/o Tatyaram Kangude ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri N.V. Gaware, Advocate for applicant
Shri S.M. Ganachari, A.P.P. for respondent
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CORAM: A.S. CHANDURKAR, J.

DATED: 8th December, 2016.

ORAL ORDER :

1. The applicant apprehends his arrest in Crime No.I-270/2016, registered at Karjat Police Station, District Ahmednagar for the offences punishable under Sections 143, 147, 323, 504, 506 of the Indian Penal Code, under Section 37(1)(3)/ 135 of Bombay Police Act and also under Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. As per the First Information Report one Kamlesh Salve has stated that, when he along with one Sagar Salve were together, the present applicant had abused him in the name of his caste and in that commotion, somebody had hit him with a stick. This resulted in lodging of F.I.R. No.270/2016.

3. It is submitted by learned counsel for the applicant that, the incident in question has arisen on account of alleged dispute between two groups in the village. The initial report was given by one Rajendra who was from the group of the applicant against the informant in Crime No.268/2016. Thereafter, on the same day, another Crime bearing No.270/2016 came to be registered against the applicant. He submitted that, allegations of general nature have been made and the accused in Crime No.268/2016 have already been granted protection. In absence of any specific allegation against the applicant, he is entitled for protection considering the filing of cross reports.

4. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers. He submitted that, statements of witnesses indicate presence of the applicant and of giving abuses. He, therefore, submitted that, considering the nature of allegations, the application deserves to be rejected.

5. Perused the F.I.R. and investigation papers. Though the incident of giving abuses is stated to have occurred in the presence of one Sagar Salve, his statement does not appear to have been recorded. Though it is mentioned that the informant was hit with a stick on his head, there is no injury certificate available on record. Statements of other witnesses are based on the version stated by the informant. Considering the fact that about 4 crimes have been registered on account of disputes between two groups, the possibility of false implication cannot be ruled out. In this background, the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would not come into play.

Moreover, the accused in all other crimes have been granted protection.

6. In view of aforesaid, in the event of applicant's arrest with regard to C.R. No.I-270/2016, registered at Karjat Police Station, District Ahmednagar for the offences punishable under Sections 143, 147, 323, 504, 506 of the Indian Penal Code, under Section 37(1)(3)/ 135 of Bombay Police Act and also under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he shall be released on bail

on furnishing P.R. bond of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

7. The applicant shall not take any steps to coerce the witnesses or tamper with the material collected by the prosecution.

8. The applicant shall attend the concerned police station as and when directed by the investigating officer.

9. It is made clear that, the observations made hereinabove are only for the purpose of deciding the present application. The criminal application is allowed and disposed of.

(A.S. CHANDURKAR, J.)

fmp/cr6307.16