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

CRIMINAL APPLICATION NO.6932 OF 2015

Ashok s/o Sitaram Shinde

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr P.S. Paranjape, Advocate for the applicant;

Mr S.M. Ganachari, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 25th January, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.79 of 2015, registered with police station, Warangaon, Dist. Jalgaon, for offences punishable under sections 307, 143, 147, 148, 149, 323, 324, 326, 427, 160 of the Indian Penal Code, under sections 7 and 37 (1) (3) read with section 135 of the Bombay Police Act and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard Mr Paranjape, learned Counsel appearing on behalf of the applicant and learned Addl. Public Prosecutor.

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3. The first information report does not depict any caste based insulting attributions. Perhaps, it appears from the statement of one of the witnesses, namely, Asha, recorded after occurrence of the incident, i.e. on 13th November, 2015, the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are invoked. Learned Counsel would urge that in view of the dispute between two communities, in the matter of use of particular piece of land, has resulted into quarrel. In absence of any specific caste based insulting attributions in the first information report, the applicant is falsely implicated.

4. Learned Addl. Public Prosecutor has opposed the application on the ground that the applicant herein is a main accused and there is bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, for entertaining pre-arrest bail application. He submits that applicant is the main accused behind the scene of crime.

5. Upon scanning the investigation papers, it is noted that that the statement of witness, which prompted invocation of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, contains omnibus allegations and there are no specific attributions against the applicant.

6. Apart from above, the investigation papers do not narrate any specific role to the applicant. Even the medical report does not speak of requirement of offence under section 307 of Criminal Procedure Code.

(3)

7. it is claimed that the applicant was one of the members of the unlawful assembly.

8. In that view of the matter, in my opinion, it will be appropriate to enlarge the applicant on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.79 of 2015, registered with police station, Warangaon, Dist. Jalgaon, for offences punishable under sections 307, 143, 147, 148, 149, 323, 324, 326, 427, 160 of the Indian Penal Code, under sections 7 and 37 (1) (3) read with section 135 of the Bombay Police Act and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station, initially during the period from 1st February, 2016 and 4th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Till filing of the charge-sheet, the applicant shall keep himself away from the jurisdiction of the concerned police station, but for attending investigation purpose.

Criminal Application stands allowed in above terms.

(4)

(N.W. SAMBRE, J.)

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