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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 649 OF 2016

Mr. Latif Hasan Shaikh and ors.

.. Petitioners

Vs.

State of Maharashtra

.. Respondent

Mr.V. M. Thorat i/by Mr. M. V. Thorat for petitioners.

Mr. J. P. Yagnik, APP for State.

CORAM: NARESH H. PATIL &
A. M. BADAR, JJ.

APRIL 05, 2016.

P.C.

1. Learned counsel appearing for the petitioners submitted that as parties were litigating on civil side in respect of immovable property, as a fallout of the same, complaint has been made. The petitioner no.1 had no reason to make allegations against the complainant and objectionable utterances on his caste. The utterances alleged to have been made attract penal consequences. The utterances find place in the complaint merely to deny petitioner no.1 equal protection of law.

2. Learned counsel submits that the trial court rejected the anticipatory bail of all the accused, including petitioner no.1, but in the High Court except petitioner no.1, other accused persons were released on anticipatory bail. The copy of the said order is annexed to the petition at Exhibit "G". Learned counsel further submits that the petitioner no.1 did not press his anticipatory bail application in the High Court. Learned counsel submits that the petitioner no.1 seriously apprehends that being in Government service, if he is put behind the bars, then his service gets affected and probably that could be one of the reasons that the complainant made allegations against the petitioner no.1. Learned counsel for the petitioners placed reliance on the following judgments:

- (a) Anita Malhotra vs. Apparel Export Promotion Council and anr. [(2012) 1 SCC 520].
- (b) Harshendra Kumar D. vs. Rebatilata Koley and ors. [(2011) 3 SCC 351].

3. Learned APP, on instructions from the Investigating Officer, who is present in court, submits that the investigation is practically complete and within a period of two weeks the police will be filing appropriate report on its own merits.

4. We direct the Investigating Officer to file appropriate report within two weeks. Learned counsel appearing for the petitioners, at this stage, submits that the petitioner no.1 be protected, otherwise he would face hardship, if he is arrested.

5. We may observe that the petitioner no.1 may surrender before the concerned Special Court/Magistrate and apply for regular bail. In case the petitioner no.1 appears before the concerned Special Court / Magistrate and apply for bail, then the concerned court will deal with the issues in view of the observations made by us above.

6. Petition is disposed of accordingly.

(A. M. BADAR, J.)

(NARESH H. PATIL,J.)