

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 403 OF 2016**

1. Mangesh Dhondu Birgavale,
 2. Vinod alias Bandy Damaji Kadam,
 3. Aniket Anant Kadam,
 4. Ketan Chandrakant Gorivale,
 5. Ravindra Parshuram Shigvan,
 6. Vivek Balaram Nivate,
 7. Abhijeet Anant Chitalkar,
 8. Pratish Pandurang Birgavale,
 9. Tushar Balaram Birgavale,
 10. Vishal Balaram Birgavale,
 11. Aniket Anant Birgavale,
 12. Ganpat alias Gara Ramchandra Gorivale,
 13. Manoj Dattaram Shigvan,
 14. Mahendra Namdev Potphode
- ...Applicants

Versus

The State of Maharashtra

...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 404 OF 2016**

1. Chandan Shivram Kadam,
2. Gangaram Umaji Nivate,
3. Baban Ambaji Gambhir,
4. Chetan Chandrakant Gorivale,
5. Nilesh Namdev Nivate,
6. Sushil Suresh Shigvan,
7. Vijay Tukaram Shigvan,
8. Swapnil Duttaram Gorivale,
9. Pravin Umaji Birgavale,

10. Damaji Kanu Kadam,
 11. Sachin Shankar Gorivale,
 12. Sagar Suresh Kharade,
 13. Umaji Navji Nivate,
 14. Mayur Tanaji Gorivale,
 15. Dhiraj Dharma Gorivale
- ...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Pradeep M. Patil for the Applicants

Ms. R. M. Gadhavi, A.P.P for the Respondent-State

HC Mr. Y. R. Chavan from Roha Police Station, Raigad, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 31st MARCH, 2016

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.
2. By these applications, the applicants seek pre-arrest bail in connection with C.R No. I-23 of 2016 registered with the Roha Police Station, Raigad, for the alleged offences punishable under Sections 395, 135(A), 143, 147, 148, 149, 324, 341, 323, 504 and 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SCST Act'). There are 14 applicants in Criminal Anticipatory Bail Application No. 403 of 2016 and 15 applicants in Criminal Anticipatory Bail Application No. 404 of 2016.

3. According to the first informant – Rakesh R. Kambale, the incident in question took place on 26th January, 2016, at about 3:30 p.m., at the meeting of the Gramsabha Village Panchayat, Tise. It is alleged that during the said meeting, a dispute arose with regard to the passing of a Resolution for installation of Dr. Babasaheb Ambedkar's Statue. It is alleged that there was an altercation between the two parties, in which the accused allegedly attacked the complainant and others with swords, choppers, iron bars and sticks and uttered certain words, which constitute an offence under the SCST Act. It is also alleged that gold chains worn by the complainant and one Vicky J. Kambale were snatched by the accused. With respect to the same incident, one Sushila Dattaram Jadhav, Deputy Sarpanch has also lodged a complaint as against the complainant in the present C.R and others, which was registered vide C.R No.I-24 of 2016 with the same Police Station.

4. Learned Counsel for the applicants submits that the allegations under the SCST Act have been included, only to ensure denial of anticipatory bail to the accused. He submitted that the falsity of the FIR is evident from the fact, that although the applicants are alleged to have assaulted the complainant and others with swords, choppers, iron bars and sticks, the injuries sustained by the said persons are simple in nature. According to him, if the weapons as alleged were used by the applicants, the nature of injuries would have been serious and grievous. He submitted that in the light of the political rivalry between the parties and the counter case lodged by them, the allegations under the SCST Act will have to be viewed.

5. Learned A.P.P has produced the injury certificates of Akshay Kambale, Rajesh Shinde, Rohit Kambale, Rakesh Kambale, Nikhil Mohite and Vikesh Kambale. It appears from the injury certificates, that the injured have received simple injuries and the weapon used is stated to be a hard and blunt object. The nature of injuries caused to most of the injured are abrasions and blunt trauma.

6. It also appears that with respect to the same incident, the Deputy Sarpanch - Sushila Dattaram Jadhav has also lodged a complaint as against the complainant in the aforesaid C.R with the same Police Station vide C.R No. I-24 of 2016. It appears that there is political rivalry between the parties. It also appears that although allegations against the accused is, that they assaulted the complainant and others with weapons such as swords, choppers, iron bars, etc., the nature of injuries sustained by them, are all simple in nature. It is in this backdrop, that the allegations made under the SCST Act will have to be viewed and the bar under Section 18 of the SCST Act will have to be considered. A perusal of the statements of some of the witnesses show, that there was an altercation between both the groups, however, none of the applicants are stated to have been armed with swords, choppers or iron rods. The said witnesses have stated that there was pelting of stones. It may be noted that these witnesses have also not disclosed that utterances as alleged under the SCST Act were made.

7. Considering the aforesaid, the application is allowed and the applicants are granted anticipatory bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
 - (ii) The applicants shall report to the Investigating Officer on every Saturday from 10:00 a.m. to 11:00 a.m., till the filing of the charge-sheet;
 - (iii) The applicants shall not tamper, attempt to influence or contact the complainant, witnesses or any person concerned with the case.
8. The Application is allowed in the aforesaid terms and is accordingly disposed of.
9. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.