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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.996 OF 2016
WITH
CRIMINAL APPLICATION NO.475 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.996 OF 2016

Ramchandra Suresh Borle and othrs	 Applicants
V/s.	
The State of Maharashtra	 Respondent
and	
Dewendra Medhekar,	.. Informant.

Mr. S. C. Daswadikar, for the Applicant.
Mr. I.S. Thakur, i/by Global Juris Consults, for intervener.
Mr. Deepak Thakery, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 30th JUNE, 2016.

P.C. :

1. Applicants/accused, in Crime No.25 of 2016, for the offence punishable under Sections 143, 147, 148, 149, 336, 323, 504, 506, 27 of Indian Penal Code and Section 37(1) (3), 135 of the Bombay Police Act, registered with Mhasala Police Station, District: Raigad, by this application are praying for pre-arrest bail. Subsequently, it is reported that in view of

amendment, Sections 3(1)(r), (s), 3 (2)(5), 3(1)(u), (z), (za), (zc), 6 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989, are added to the case diary.

2. The learned counsel for the applicant by taking me through the entire F.I.R., argued that omnibus statements alleged to have been made by a mob comprising of 20 or more than 20 persons cannot display any intention on the part of accused persons to intentionally insult member of Scheduled Caste with intention to humiliate him. The learned counsel argued that no offence under Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, is prima facie made and therefore applicants are entitled for pre-arrest bail. He further argued that in the F.I.R. caste of accused persons is not reflected. He further pointed out that in F.I.R. No.22 of 2016, registered with same police station, it is seen that at about 8.45 p.m. Jitendra Medhekar was present somewhere else and this reflects falsity of F.I.R.

3. The learned counsel for applicants relied on following three citations :-

I) Pappu Singh -vs- State of U.P. (2002) Cri L.J. 1251

ii) Mukesh Kumar Saini -vs- State (Delhi Administration), (2202) ALL MR (Cri), Journal 41.

iii) Vilas Pandurang Pawar and anr -vs- State of Maharashtra and ors, AIR 2012 SC 3316.

4. In the present F.I.R. Informant Dewendra Medhekar alleged that on 22.5.2016 initially at about 8 to 8.30 p.m. when he was standing at the gate of his company alongwith others, applicant Ganesh came there and uttered the words "***Chambhardya, Tu Amchyapeksha Motha Hotos Ka, Chambhara Tula Ambhi Baghun Gheu***". Thereafter according to informant accused persons formed unlawful assembly with an object of commission of crime. At about 9.30 p.m. both the applicants accompanied by their supporters pelted stones at the premises of informant. The informant further averred that present applicants and their associates hurled castiest abuses and uttered words, Chambhardya Tu Amchyapeksha Motha Hotos Ka".

5. Prima facie it is seen from the F.I.R., itself that the incident in question is triggered by the act of informant Dewendra Medhekar. As seen from the F.I.R. that on 22.5.2016 in the morning hours, he had put up boards in front of gate of his factory stating that both the applicants are cheaters. The incident in question is fall out of the board put up by the present informant at premises of his factory. Be that as it may, there is a bar under Section 18 of the Scheduled Caste and Scheduled Tribe

(Prevention of Atrocities) Act which prohibits entertaining application under Section 438 of the Code of Criminal Procedure.

6. In the case in hand the F.I.R. itself discloses commission of offence punishable under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. As such rulings cited on behalf of applicants have no application to the instant case. The application is, therefore, rejected.

[A. M. BADAR, J.]