

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1009 OF 2016

Santosh Janardan Khaladkar & Ors.	... Applicants.
Versus	
State of Maharashtra	... Respondent.

Mr. Pranav H. Bhoite for Applicants.
Mr. Deepak Thakery, Asst. Public Prosecutor for Respondent-State.

CORAM : A.M. BADAR, J.

DATED : 7TH JULY, 2016.

P.C. :

1] Heard.

2] The learned Asst. Public Prosecutor opposed the application by contending that averments in the First Information Report (FIR) goes to show that accused persons had fallen a tree near bathroom outside the house of the informer. The recitals in the FIR according to the learned Asst. Public Prosecutor reveals that the fallen tree was laid on the road causing obstruction. The FIR reveals that there was damage to the pipes used for supplying water and to the bathroom made of bamboo mating. Hence in the submission of the

learned Asst. Public Prosecutor applicants/accused have destroyed the water pipeline and bathroom made of bamboo mating. According to the learned Asst. Public Prosecutor, water channel ordinarily used by the member of a Scheduled Castes and Scheduled Tribes was damaged so as to render it less fit for the purpose for which it is used and therefore, the offence under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is made out.

3] Perused the FIR as well as case diary. It is seen from the FIR that there was dispute in respect of boundry of fields between the prosecuting party as well as accused persons. It is averred in the FIR that applicant/accused Santosh Khaladkar has ploughed some land, which the informant claims to be belonging to him. It is further averred in the FIR that accused persons had assaulted wife of the informant by means of fist and kick blows. It is further averred that there was damage to the pipeline of the field and bathroom of bamboo mating. It is further averred in the FIR that accused Vijay who is not the applicant before this Court had uttered casteist remark with an intention to insult the informant within a public view.

4] It is seen that averments regarding insult or intimidation to a member of a Scheduled Castes and Scheduled Tribe at public place in public view are attributable to Vijay who is not applicant before this Court. Role attributable to present applicant is of causing hurt to the members of the prosecuting party. It is also avert that some damage is caused to pipes supplying water to the field and bathroom made of bamboo mating. Corrupting or fouling the water of a spring or reservoir implies making it impotable for consumption and no such averments are made in the FIR against the applicant. As such I am of the view that no offence punishable under under the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is *prima facie* made out against the present applicant and therefore, the order;

- a) The application is allowed.
- b) The Interim order, dated 17th June, 2016 is confirmed on same terms and conditions.

(A.M. BADAR, J.)