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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1106 OF 2016

Sambhaji Popatrao Jagtap and ors	 Applicants
V/s.	
The State of Maharashtra	 Respondent

Mr. Kuldeep S. Patil, for the Applicants.
Mr. Arfan Sait, APP for the Respondent State.
Mr. A. N. Jadhav – PSI Vadgaon Nimbalkar Police Station, District: Pune.

CORAM : A. M. BADAR, J.

DATE : 12th JULY, 2016.

P.C. :

1. The applicants/accused, in C. R. No.173 of 2016, for offence punishable under Sections 143, 384, 504, 506, of the Indian Penal Code, and under Section 3(1)(r) (s) and 3(2) (v-a) of the Scheduled Caste and Scheduled Tribe Atrocities (Prevention of Atrocities) Act, 1989, and under Section 7(1)(d) of Protection of Civil Rights Act, registered with Vadgaon Nimbalkar Police Station, District: Pune, by this application are seeking pre-arrest bail.

2. Heard the learned counsel for applicants. By taking me through the F.I.R. as well as annexures to the application, he argued that

way back on 1.9.015, Gram Panchayat has taken a resolution for taking action in respect of illegal excavation of sand. Subsequently on 12.1.2016, action was taken by the Revenue Department and sand came to be seized. One of the applicants is panch witness to this action. It is further argued that villagers made complaint about illegal excavation of sand by Suresh Gadekar to Kamgar Talathi on 16.5.2016. It is further argued that three applicants are office bearers of Gram Panchayat and one applicant is husband of member of Gram Panchyat. It is further argued that Suresh Gadekar has set up the informant to falsely implicate applicants in crime in question.

3. I also heard the learned APP. By pointing out the papers of investigation and particularly statement of Suresh Gadekar and Sandip Gaikwad, the learned APP argued that in view of bar of section 18 of the Scheduled Caste and scheduled Tribe Atrocities (Prevention of Atrocities) Act, 1989, application cannot be entertained.

4. Perused the F.I.R. It reflects that the informant Balasaheb Gaikwad, has reported that one Suresh Gadekar (against whom report of illicit excavation of sand is made by villagers) has witnessed the incident. Perusal of the F.I.R. lodged by Balasaheb goes to show that applicants have attempted to extort an amount of Rs.10,000/- towards allotment of house in Housing Scheme of the State Government. It is averred in the

F.I.R. that as amount demanded was not paid, all the applicants contacted initially to mother of the informant on 15.5.2016. Thereafter at about 4.30 p.m. of that day by contacting the informant at village Vaki, applicants demanded Rs.10,000/- from the informant. The informant further averred that applicant No.3 Shankar Martand Jagtap with applicant No.4 Atul Mahadeo Jagtap, have insulted him at a public place within the public view by making castiest remarks at him. Similarly the informant further averred that applicant No.4 Atul Jagtap and applicant No.5 Sagar @ Satyajit Jagtap again humiliated him by making castiest remark at him.

5. Though the learned APP submitted that castiest remarks are attributed to all applicants, the perusal of the F.I.R. as well as statement of witnesses do show that such accusation are attributed to all applicants.

6. The perusal of the case diary does not show that amount was actually extorted. In fact the papers of investigation do show that allotment of house under Indira Awas yojana, in favour of informant Balasaheb Gaikwad, was by the Executive Committee of the District Rural Development Agency, Pune. The said order is collected during the course of investigation. As such prima facie present applicants some of whom are the members of Gram Panchayat were not having powers either to allot subsidized house or to cancel such allotment.

7. In this view of the matter, bar of section 18 of the Scheduled

Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 applies to applicant No.3 Shankar Jagtap, applicant No.4 Atul Mahadeo Jagtap and applicant No.5 Sagar @ Satyajit Bhanudas Jagtap. So far as rest of the applicants are concerned, their application can be entertained as no prima facie case for offence punishable under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is made out against them. Their custodial interrogation as such is not warranted. In view of foregoing discussion, the application is partly allowed by passing following order.

Order

- I) Application is partly allowed.
- II) Application in respect of applicant No.3 Shankar Martand Jagtap, applicant No.4, Atul Mahadeo Jagtap and applicant No.5 Satyajit @ Sagar Bhanudas Jagtap, is rejected.
- III) In the event of arrest of applicant No.1 Sambhaji Popatrao Jagtap and applicant No.2. Bharat Nivrutti Kumbhar, in above crime, they be released on bail on their executing P.R. Bonds in the sum of Rs.25,000/- by each of them and on their furnishing sureties in the like amount, by each of them.
- IV) The applicant No. 1 and 2 shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

V) The applicant Nos. 1 & 2 shall attend the concerned police station on 24.07.2016 in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.

VI) The applicants shall not tamper with the prosecution evidence in any manner.

[A. M. BADAR, J.]