

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1315 OF 2016

1.	Daji Shivram Awale	)
2.	Vitthal Shivram Awale	)
3.	Subhadra Vitthal Awale	)
4.	Uttam @ Sonu Vitthal Awale	).. Applicants
	Vs.	
	The State of Maharashtra	..Respondent

Mr. Javeed Hussein i/b. Hussein & Co.Advocate for the applicants.
Mr. Prashant Jadhav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 23rd August, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicants herein are apprehending their arrest in Crime No.254 of 2016 registered at Vita Police Station, Sangli for the offences punishable under Sections 323, 452, 143, 147, 149, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 7(D) of the Protection of Civil Rights Act, 1955

2. It is the case of the prosecution that on 7.7.2016, the

complainant herein lodged a report at the police station alleging therein that on 27.6.2016, he was hired on daily wages by one Shrikant Mulik to participate in the protest rally and had also attended the fast for protest along with Shrikant Mulik. It is alleged that the present applicants had a quarrel with Shrikant Mulik and disliked the gesture of the complainant having co-operated with Shrikant Mulik and had abused by referring to his caste as 'Mahar'. He was also threatened of dire consequences. It is alleged that thereafter on 27.6.2016, the applicant along with others had entered into the house of the complainant and had abused him and assaulted him. Hence, an offence under Section 452 of IPC was also made out. It prima facie, appears that the complainant was initially working with the present applicants on daily wages. That there was enmity between Shrikant Mulik and the present applicants.

3. The learned counsel for the applicants submits that in order to satisfy the personal vendetta with Shrikant Mulik, the present applicants have been falsely implicated through the complainant who belongs to the Scheduled caste. In fact, it prima facie does not appear that the complainant was abused in public view by referring to his caste. That the ingress to the house of the complainant attracts an offence punishable under Section 452, IPC for which custodial interrogation is not imperative. Therefore,

prima facie, no case is made out under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes Prevention of Atrocities) Act. In the facts and circumstances of the case, Section 18 of the said Act would not be attracted. Hence, the applicants deserve pre-arrest bail.

4. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial as it is restricted to the application under Section 438 of Cr.P.C.

ORDER

- (i) The application is allowed.
- (ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)