

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1581 OF 2016

1 Girish S/o Basvaraj Patted.
2 Prashant Kashinath Kolhe.
3 Anil Vijaybasappa Patted.
4 Mahanteshwar @ Mahantesh
Dundappa Amangi. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Santosh Jadhwar a/w. Mr. Umesh Mankapure, advocate for Applicants.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 14, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers of investigation.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 277 of 2016 registered at Akkalkot (North) Police

Station, Akkalkot, District Solapur for the offence punishable under Section 3(i)(ix(v), 3(2), (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015 and under Section 323, 504 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 24/8/2016 complainant namely Swaminath Yashwant Harwalkar lodged a report at Akkalkot (North) Police Station alleging therein that he happens to be teacher working in Secondary School run by Karnataka Lingayat Education Society for almost 27 years. According to the complainant, the applicant No. 1 happens to be principal of the said school. According to the complainant, on 1st July, 2016, by an administrative order the complainant was transferred to Silver Jubilee High School, Barshi. He did not report to the school where he was transferred nor he attended the regular school where he was working.

4 It is therefore, alleged that on 10/8/2016 at about 4.45 p.m. he was called by social worker Hanmantappa Mhadappa Bharamshetty

who had informed him that he was called by the Management in the school. That he was sent as messenger to call upon the complainant. He was called by the Management to cancel his transfer to Silver Jubilee High School at Barshi. He had been to school to meet them. According to the complainant, the present applicants were waiting for the complainant. Thereafter, he was abused by all the applicants by referring to his caste. According to him, he was humiliated by the present applicants in public view by hurling abuses with reference to his caste and hence, the applicants have committed offence under the provisions of Prevention of Atrocities Act, 2015.

5 The learned APP fairly submits that the papers of investigation would reveal that the applicant Nos. 2 and 3 were not present at the time of incident.

6 The learned Counsel for the applicants submits that the real grievance of the complainant for implicating the present applicants is that he was transferred to Silver Jubilee High School against his wish

and he desires to continue at the school at Akkalkot. That it was an administrative order and it was incumbent upon the complainant to follow the administrative order. The learned Counsel further submits that false implication is apparent on the face of the record. That the complainant has taken advantage of the stringent provisions under Section 18 of the Atrocities Act and had implicated the present applicants in non-bailable offence.

7 Taking into consideration the nature of allegations and papers of investigation and the submissions advanced across the bar, the applicants herein deserve to be protected. Moreover, the applicant Nos. 2 and 3 who were not at Akkalkot on the day of incident have also been implicated. The learned Counsel submits that prima facie the allegations are not well-founded and in the event of arrest, the applicants would be exposed to social obloquy. It is matter of record that the allegations prima facie do not indicate that custodial interrogation would be imperative and hence, the applicants deserve pre-arrest bail

8 It is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same while deciding the application for discharge or quashing of FIR or at the time of trial. The same be decided on its own merits.

9 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 277/2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall report to concerned police station as and when called, after issuing notice under Section 160 of the Code of

Criminal Procedure, 1973 and cooperate with the investigating agency to the best of their capacity.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)