

The State of Maharashtra ...Respondent
...
Mr. Prashant M. Patil for the Applicants.
Mr. R.M. Pethe, APP for the Respondent -State.

DATED : NOVEMBER 24, 2016.

Heard the learned counsel for the Applicant and the learned
APP for the Respondent -State.

2. This is an application under section 438 of the Criminal procedure Code, 1973. The Applicants herein are apprehending their arrest in Crime No.3061 of 2016 registered at Kondhwa Police Station for the offences punishable under sections 3(1) (R) (S), 3(1)(f) (g), 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989 and under section 7 (1) (D) of the Protection of the Civil Rights Act, 1955.

3. It is the case of the prosecution that despite efforts to

obtain the copy of the FIR and the copy of the private complaint, he could not get the same as the papers are not traceable. It is the case of the prosecution that on 9th June, 2016, one Ramdas Bhiva Salve lodged a report at the police station alleging therein that he has ancestral land bearing survey No.64/1A/1 situated at Kondhwa Budruk, Taluka-Haveli, District-Pune. In August, 2008, Hiranman had threatened the first informant that he should not enter into the said land. On 20th July, 2015 Hiranman Godse and his son alongwith 10 to 15 persons had entered into the agricultural land of the first informant and had claimed ownership of the said land. At that time he had also abused the first informant by referring to his caste. The learned counsel for the Applicants submits that there are several disputes between the first informant and the accused persons and the present FIR has been filed only to wreak personal vengeance and therefore, the Applicants deserve to be granted pre-arrest bail. It appears from the records that on 6th August, 2015 the accused Hiranman Godse had filed a report to the superintendent of Police and other police officers against the first informant that the complainant Ramdas had filed a suit under the provisions of Specific Performance Act and for cancellation of sale deed and the complainant had threatened them that they would face dire consequences. Hiranman also specifically stated that there was a threat

that they would be prosecuted under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities)Act, 1989. It appears from the record that there are several disputes between the parties. The learned counsel for the Applicants submits that there was no cause for the Applicants to abuse him by referring him by his caste. Taking into consideration the nature of the allegations, it is clear that in the facts of the given case custodial interrogation is not imperative and hence the Applicants deserve to be granted pre-arrest bail.

4. It is made clear that the the observations are restricted to an application under section 438 of the Criminal Procedure Code and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

O R D E R

- (i) The application is allowed.
- (ii) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.
- (iii) The Applicants shall report to the concerned police station as and when called for.

5. The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)