

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

6 CRIMINAL APPLICATION NO. 1320 OF 2017

AJAY S/O SURESH LOHAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Shri. N.K. Kakade, Advocate, for applicants.

Shri. S.M. Ganachari, Additional Public Prosecutor, for respondent.

Coram: T.V. NALAWADE, J.

Date: 30 March 2017

ORDER:

1) The application is filed for relief of anticipatory bail. Both the sides are heard.

2) The crime is registered on the basis of report given by Smt. Sunanda Kapure, mother of Rohit @ Rahul. The incident took place on 22-2-2017. On that date at about 8.30 p.m. there was first quarrel between Rahul and applicant No.1, Ajay Lohar as motor-cycle of Ajay Lohar had given evasive cut to the motor-cycle of Rahul and Rahul had questioned about this conduct of Ajay. Due to

this incident, Ajay felt enraged and he came with his friends. Allegations are made that in presence of the friends of Rahul, all the present applicants gave abuses by taking the name of caste of Rahul which is a scheduled caste.

3) In respect of the incident dated 22-2-2017 Ajay Lohar first gave report to police and the crime at CR No.58/2017 came to be registered for offences punishable under sections 395, 294, 324, 323, 504 etc. of the Indian Penal Code against Rahul and his friends. The submissions made show that Rahul was taken in custody and when he was in police custody mother of Rahul went there to make inquiry and then Rahul disclosed the incident to her. After such disclosure Smt. Sunanda gave report on 23-2-2017 against the present applicants. Crime at CR No.59/2017 came to be registered for offences punishable under section 143, 147, 149, 323 and under section 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act against the present applicants.

4) The police papers show that there are statements of eye witnesses and it can be said that both the sides filed complaints against each other. It can be said that the persons on the two sides who were really involved were Ajay Lohar and Rahul Kapure. Rahul came to be arrested in view of nature of allegations made against him. There are allegations against Ajay Lohar but there are vague allegations against remaining applicants. It can be said that applicant Nos.2 to 5 should not suffer due to aforesaid incident. This Court has no hesitation to observe that there is exaggeration from both the sides and there is possibility of harassment of innocent boys of both the sides. Who can be made to suffer from both the sides are only Rahul and Ajay.

5) When this Court expressed that this Court is not inclined to grant relief in favour of applicant No.1, Ajay, learned counsel, on instructions, submitted that he wants to withdraw the application in respect of applicant No.1 Ajay. So, the application of applicant No.1 stands disposed of as withdrawn. Interim protection granted in his favour is vacated.

6) The application of applicant Nos.2 to 5 is hereby allowed. The interim protection granted in their favour is hereby confirmed. It was submitted that these applicants had attended the concerned police station as per the conditions imposed on them by this Court.

Sd/-
(T.V. NALAWADE, J.)

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