

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

**Criminal Application No.1298 of 2017
With
Criminal Application No.1466 of 2017**

Pravin Santosh Chaudhary
And Two Others. **.. Applicants.**

Versus

The State of Maharashtra & Anr. **.. Respondents.**

Shri. N.L. Choudhari, Advocate, for applicants.

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

Shri. M.R. Wagh, Advocate, for applicant in Criminal Application No.1466 of 2017.

AND

Criminal Application No.1400 of 2017

Santosh s/o Keshav Chaudhary
(Mali). **.. Applicant.**

Versus

The State of Maharashtra & Anr. **.. Respondents.**

Shri. N.L. Choudhari, Advocate, for applicant.

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

Coram: T.V. NALAWADE, J.

Date: 21 March 2017

ORDER:

1) Criminal Application No.1298/2017 is filed for relief of anticipatory bail. Criminal Application No. 1400 of 2017 is filed for the relief of bail and Criminal Application No.1466/2017 is filed by the complainant for permission to assist the learned Additional Public Prosecutor. The said application is allowed and the applicant is permitted to assist the APP. Both the sides are heard.

2) The submissions made and the record show that there is some dispute between the family of the complainant and the family of the accused, applicants. Initially the land which is with the family of the complainant was owned by one Hemlal. There was some dispute between Hemlal and the accused side over right of Hemlal to use so called cart-way which was existing in the field of the accused. Hemlal then sold the property to the complainant side. It is contended that the accused side wanted to purchase the land of Hemlal but the

negotiations failed and so the land was sold to the complainant side by Hemlal.

3) There is allegation made by the complainant that as the land was purchased by the complainant side the accused side was angry. Allegations are made that when on 13-1-2017 in one matter which was pending under the Mamlatdar's Courts Act, the Tahsildar came to the spot for spot inspection and when the Tahsildar left at about 5.00 p.m. all the applicants picked up quarrel with the complainant side and they gave abuses to the complainant side by taking the name of the caste which is scheduled caste. Allegations are made against Sarlabai that during incident she assaulted the complainant by using chappal. It is contended that Hemlal was there to witness the incident.

4) There is no M.L.C. The learned Additional Public Prosecutor submitted that there are independent witnesses like Dattu Patil available to show that Pravin gave abuses by taking the name of the caste of the complainant.

5) Learned counsel for the applicants submitted that apparently there is dispute of civil nature between the two families. He took this Court through various complaints and reports given by the complainant side against the accused side. The record shows that in the month of April 2016 report was given to the police by Sarlabai against the complainant side that by using force cart road was created and for that even the trees were cut by the accused side. Applicant Pravin is working in Armed Forces and he had reported in May 2016 to the superior officer that due to such dispute there is possibility of false implication and his family was being harassed due to the dispute. Copy of the complaint given by applicant Santosh dated 14-12-2016 is produced. In that report also he had expressed apprehension that there was possibility of use of the provisions of the Atrocities Act against them to pressurize them.

6) When some matter was pending before the Mamlatdar it was necessary for both the sides to see that no steps were taken like use or creation of road. The accused side has contended that by using force the

complainant side was trying to create cart-road. The learned counsel for the applicants drew attention of this Court to the provisions of section 3(1)(r)(s) of the Act, 1989 and submitted that the alleged incident took place in the field and it cannot be said that the spot was within public view. There is force in this submission.

7) It is surprising that the Sessions Court did not grant regular bail to Santosh even when the crime is registered only for offences punishable under section 323, 504, 506, 34 of the Indian penal Code and section 7(1)(d) of the Protection of Civil Rights Act and aforesaid provisions. Santosh is behind the bars from 4-3-2017. In view of these circumstances this Court holds that the relief needs to be granted.

8) In the result, Criminal Application No.1298 of 2017 is allowed. In the event of arrest in connection with Crime No.3/2017 registered in Shindkheda Police Station for offences punishable under sections 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, under sections 323, 504, 506, 34 of the

Indian Penal Code and section 7(1)(d) of the Protection of Civil Rights Act all the applicants are to be released on bail on their furnishing P.B. and S.B. of Rs.25,000/- by each of them. They are not to tamper with the prosecution witnesses. They are not to commit similar offence. Applicant No.2 - Ravindra to attend the concerned police station for a period of one month between 9 a.m. to 12.00 noon on every Sunday.

9) Criminal Application No.1400 of 2017 is allowed. The applicant-Santosh is to be released on bail in connection with Crime No.3/2017 registered in Shindkheda Police Station on his furnishing P.B. and S.B. of Rs.15,000/- He is not to tamper with the prosecution witnesses. He is not commit similar offence.

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

rs1