

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

CRIMINAL APPLICATION NO. 2160 OF 2017

CRIMINAL APPLICATION NO. 2134 OF 2017

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CRIMINAL APPLICATION NO. 2160 OF 2017

1. Prashant Appasaheb Chaudhari .. Applicants
Age.51 years, Occ. Labour
2. Annasaheb Waraji Chaudhari
Age.51 years, Occ. Labour
3. Mahesh Appasaheb Chaudhari
Age.31 years, Occ. Labour
4. Sachin Annasaheb Chaudhari
Age.31 years, Occ. Labour
5. Appasaheb Waraji Chaudhari
Age.60 years, Occ. Labour

All above R/o. Kukkadwedhe,
Tq. Rahuri, Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO. 2134 OF 2017

Sujit s/o. Kashinath Pansare .. Applicant
Age. 32 years, Occ. Agri.,
R/o. Kukkadvedhe, Tq. Rahuri,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr.N.V. Gaware, Advocate for applicants in Criminal Application No. 2060 of 2017.

Mr.N.B. Narwade, Advocate for applicant in Criminal Application No.2134 of 2017.

Mr.M.M. Nerlikar, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE,J.

DATED : 04.05.2017

P.C. :-

1. These applications are filed for the relief of anticipatory bail. Both the sides are heard. Learned A.P.P. made available the papers of investigation.

2. When this Court has expressed that this Court is not inclined to grant relief in favour of applicant No.3-Mahesh Chaudhari in Criminal Application No.2160 of 2017, learned Counsel for the applicants submitted that he wants to withdraw the proceeding to the extent of applicant No.3-Mahesh Choudhari. Criminal Application No.2160 of 2016 is disposed of as withdrawn to the extent of applicant No.3-Mahesh Chaudhari. The interim relief granted in his favour is vacated.

3. Crime No.122 of 2017 is registered in Rahuri

Police Station, Dist. Ahmednagar against the applicants and others for offence punishable under section 323 143, 147, 148, 149 of the Indian Penal Code and section 3(1) (x) of the S.C. & S.T. (Prevention of Atrocities) Act, on the basis of report given by one Sundarbapu Bandu Barde. The incident in question took place on 08.04.2017 after 9.30 p.m. It is his contention that on that night there was program of Orchestra in his village and when they learnt that some boys were disturbing the program by pelting stones, he went there. The complainant made allegation that when he and his uncle Khandu went there the applicants and other accused picked up quarrel with them. Specific allegations are made against Rushikesh, Rahul and Bharat that they used sword and tommy and they assaulted the complainant on his head by using these weapons. The statement was made that all these persons were already arrested and they are enlarged on bail.

4. The record of investigation shows that three persons like, Sundar, Ashok and Subhash sustained injury

in the incident. Subhash sustained CLW over left scalp parietal region and Ashok also sustained similar injury almost at the same side. However, the injuries are described as simple injuries. The allegations are made by Subhash and Ashok that Mahesh gave blows of tommy on their head. The allegation are that during the incident Prashant had caught hold of injured, when Mahesh was giving blow.

5. Insofar as offence committed under the aforesaid special enactment is concerned, it can be said that vague allegations are made against all the accused that all of them gave abuses in the name of their tribe, which is scheduled tribe.

6. In view of nature of allegations made against the applicants, except Mahesh, this Court holds that there is possibility of exaggeration. The submissions made show that first informant Sundar is nephew of village Sarpanch and applicant No.2 is member of village

Panchayat. This circumstance shows that there is possibility of their political rivalry. When there is political rivalry, names of all active persons are taken while lodging complaint. In view of the circumstances, protection needs to be given to the applicants in both the proceedings.

i. In the result, Criminal Application No. 2160 of 2017 to the extent of applicant No.1-Prashant, applicant No.2-Annasaheb, applicant No.4-Sachin and applicant No.5-Appasaheb and Criminal Application No. 2134 of 2017 of applicant – Sujit are allowed.

ii. The interim protection granted on 27.04.2017 and 26.04.2017 respective in favour of aforesaid applicants is confirmed.

[T.V. NALAWADE, J.]