

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2439 OF 2017

- 1 Rukhaminibai w/o Yadav More, Age ... **Applicants**
40 years, Occ. Agriculture, R/o.
Aalegaon, Tq. Khandhar, District
Nanded.
- 2 Laxman s/o Yashwant @ Sitaram
More, Age 75 years, Occ.
Pensioner, R/o. Near Jain Mandir,
HUDCO, Nanded.

V E R S U S

- 1 The State of Maharashtra, Through ... **Respondents**
The Investigating Officer, Police
Station Usman Nagar, Tq. Kandhar,
Dist. Nanded.
- 2 Santuka Datta Ambatwad, Age 55
years, Occ. Agriculture, R/o.
Aalegaon, Tq. Khandhar, District
Nanded.

Mr. M.B. Sandanshiv, Advocate for the Applicants
Mr. K.N. Lokhande, A.P.P. for the respondent/State
Mr. G.G. Suryawanshi, Advocate for the respondent No.2

CORAM : K.L. WADANE, J.

DATE : 2nd AUGUST, 2017

ORDER :

1. Heard Mr. Sandanshiv, learned counsel
appearing for the applicants, Mr. K.N. Lokhande,
learned APP for the respondent-State and Mr.
Suryawanshi, learned Advocate for the respondent
No. 2.

2. One Santuka Ambadwad lodged complaint to the police station on 10.04.2017 alleging that on 09.04.2017 at about 4 p.m., the mother-in-law of the informant namely Sundarbai Kamble died and for the last ceremony informant and others were digging a ditch. At that time applicants No. 1 and 2 came there and abused him on his caste. On the basis of the information given by the informant offence came to be registered at Crime No. 58/2017 under the provisions of section 3(1)(r)(s)(Za) A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and under section 506 read with section 34 of the Indian Penal Code.

3. From the averments in the first information report it appears that the land in which the informant was digging the ditch was belonging to the applicants. I think, this was the cause of this quarrel between the applicants and the informant.

4. On perusal of the spot panchnama it appears that, the spot where the informant was digging the ditch is Gat No. 44 situated at village Aalegaon. On perusal of the 7x12 extract of Gat No. 44 it appears

that, it is belonging to Chatrapti More and others, who is stated to be father-in-law of the applicant No.1.

5. Most of the material documents are placed on record i.e. copy of the panchnama prepared by Circle Inspector Mr. B.L. Waghmare and this copy of panchnama is placed on record by the respondent No. 2. On perusal of the same, it appears that, the place where the informant and others were digging the ditch was in Gat NO. 43 and 44. Gat No. 43 belonging to Balaji More and Gat No. 44 belonging to Chatrapati More and others. So apparently, it appears that, the place where the incident took place belonging to the family of the applicants and they are claiming that the property is belonging to their family.

6. It appears that, there is dispute between the family of the present applicants and the community belonging to the informant regarding grave-yard. In such circumstances, the possibility of incident being coloured cannot be ruled out. Furthermore, the allegations about abuses on the caste are made against the two accused persons. So there are no specific

allegations against each of the applicants.

7. Mr. Suryawanshi, learned counsel appearing for the respondent No. 2 submits that there is express bar provided under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act for granting pre-arrest bail. However, in view of the absence of specific allegations and the fact that, the land is belonging to the applicants family, I am of the opinion that, the applicants can be protected from their arrest. Hence, following order.

O R D E R.

1. Application is allowed.

2. Interim bail granted as per the order of this Court dated 11.05.2017 is hereby confirmed and made absolute.

8. Criminal application is disposed of.

(K.L. WADANE, J.)