

2. Mr. Gaware, the learned counsel for the applicant states that during the pendency of the application, applicant No.2 was arrested and therefore he did not want to press the application of Applicant No.2 being infructuous. Application to the extent of applicant No.2 is accordingly disposed of.

3. Present Criminal Application is filed under section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No. 234/2017, registered with Karjat Police Station, District Ahmednagar for the offences punishable under sections 325, 324, 323, 452, 143, 147, 148, 149, 427, 504, 506 of the Indian Penal Code, 1860 and section 3(1)(x) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

4. Complainant Ashwini Shinde lodged a complaint with Karjat Police station that on 29.05.2017, at about 5.30 p.m., when she went for washing clothes to the well at the back side of her house, at that time another accused Nanda Sudrik came there and started abusing her in filthy language alleging that her husband is killed by the informant and her relatives.

Accused Nanda was abusing the informant on her caste. When the informant resisted, the accused Nanda got annoyed and started beating her and hereafter went in the village and came alongwith number of persons including the present applicants. They again abused the informant and started beating her with stick, stone and axe. They brought kerosene drum. When husband of the informant Vijay, mother-in-law Reshma and father in-law Parshuram Shinde tried to intervene and rescue the informant, they were also assaulted by the accused persons by means of the above referred weapons and after assault, the accused persons left the spot. During the assault, the accused persons have also broken the door of the house of the informant. The informant and her family members sustained multiple injuries. Police arrived at the spot and took them firstly to the Rural Hospital, Karjat and then they were shifted to Civil Hospital at Ahmednagar. The statement of the informant Ashwini Shinde was recorded at the Civil Hospital and accordingly offence came to be registered against the accused persons.

5. During the course of argument, Mr. Gaware, the learned counsel for the applicant has pointed out the contents of the FIR and by referring the same, he has argued that the allegations against the present applicants and other 100-125 persons are that they, armed with with stone, Axe, wooden stick, assaulted the informant and her relatives. They also abused the informant on her caste. On perusal of the contents of the first information report, it appears that there is vague and general statements that the present applicants and other accused persons, including 100-125, persons have assaulted and abused the informant and her family members. Such statement is not acceptable at a logical end because, in normal course it is not possible that 100/125 persons can abuse 3/4 persons. It appears that allegation in reference to the assault and abuse on caste are very vague and general in nature. There is no specific role of the accused who actually assaulted the informant or his family members or who abused the informant or his family members on caste.

6. Mr. Gaware, the learned counsel relied upon the

judgment of this Court in the case of **Shashikant Ramhari Tambe ors. Vs. the State of Maharashtra,** reported in **2008 BCI 418** in which it is observed that-

"4. The FIR has been lodged on 27.05.2008 i.e. one week after the incident. There is inordinate delay in lodging the FIR. No explanation for the delay has been given by the complainant. The delay raises grave doubt in the mind regarding the veracity of the complaint. Moreover, on perusal of the complaint, it is seen that the complainant has made general allegations against all the seven accused persons that they abused her with reference to her caste.

5. Useful reference may be made to a decision of the supreme court in the case of Mukesh Kumar Saini Vs. State (Delhi Administration) reported in 2002 ALL MR (Cri)Journal 41. In the said case, it was observed that there must be specific accusation alleged against each of the accused and Section 34 of the Indian Penal Code cannot be pressed into service. Omnibus statement that all the accused persons uttered alleged humiliating word may not be enough. In the present case, there is no specific accusation alleged against each of the accused. Looking to the above facts, I am inclined to

grant anticipatory bail to the applicants.

Mr. Gaware, the learned counsel, also relied on the observation in the case of **Rachandra Govindrao Watkar & another Vs. State of Maharashtra, reported in 1996 BCI 39** which reads thus:

" As regards the applicant No.2, the learned counsel submits that though in the reply filed by the State, it is alleged that applicant No.2 abused the complainant by saying "mahardiya" but since there is no material to show that the said utterance amounted to intentional insulting the complainant even against the accused/applicant No.2, no offence under section 3(X) of the Prevention of Atrocities Act is made out prima facie and, therefore, the Additional Sessions Judge seriously erred in rejecting the application as not maintainable."

7. Looking to the observation of the above stated case laws, those observations are perfectly applicable to the facts of the present case, when there is no specific allegation against a particular accused as to the abuse on caste.

8. Mr. Gaware, the learned counsel appearing for the applicants points out that there are rivalry

between the complainant and accused persons on account of previous crime. However, the allegation in the present case is to be examined to see whether the offence punishable under the S.C., S.T. (Prevention of Atrocities) Act is prima facie attracted or not. Looking to the vagueness of the allegation and observations of the above cited authorities, I am of the opinion that prima facie the offence under the provisions of S.C., S.T. (Prevention of Atrocities) Act do not constitute.

9. In such circumstance, considering the vagueness in the statement of the complainant, I am of the opinion that the applicants can be protected from their arrest by putting certain conditions. Hence following order:

O R D E R

- i. In the event of arrest of the applicant Nos. 1 and 3 in connection with Crime No. 234/2017, registered with Karjat Police Station, District Ahmednagar, they shall be released on bail on their executing P.R. Bond of Rs. 15,000/- [Rs. Fifteen thousand only] each, with one solvent

surety in the like amount.

ii. Applicant Nos. 1 and 3 shall not tamper with the evidence of prosecution in any manner and shall cooperate with the further investigation.

iii. Applicant Nos. 1 and 3 shall not enter the village limit of village Kopardi, Taluka Karjat District Ahmednagar till filing of the charge sheet.

iv. Criminal application disposed of.

(K. L. WADANE, J.)

JPC