

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

912 CRIMINAL APPLICATION NO. 3469 OF 2017

SHINDHUBAI W/O. SHESHRAO CHAVAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Dhananjay M. Shinde.

APP for Respondent No.1 : Mr. S. M. Ganachari.

Advocate for Respondent No.2 : Mr. Shashikant S. Londhe.

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CORAM : **V. K. JADHAV, J.**

DATE : 11th August, 2017.

ORDER:

. By this application, the Applicants are seeking pre-arrest bail in connection with Crime No.62 of 2017 registered at Basamba Police Station, District Hingoli for the offences punishable under Sections 307, 325, 324, 354, 143, 144, 147, 148 and 149 of the Indian Penal Code and Section 3(1)(ii) of the S.C. & S.T. (Prevention of Atrocities) Act. Their applications with similar prayer bearing Criminal (Miscellaneous) Bail Application No.135 of 2017 and Criminal (Miscellaneous) Bail Application No.136 of 2017 came to be rejected by the Additional Sessions Judge, Hingoli by common order dated 21st June, 2017.

2 Brief facts giving rise to the present application are as follows:

On 1st July, 2017 at about 10:00 am, the Complainant alongwith his cousin went to his land Gat No.4 situated within the limits of village Mauja. At that time, Accused Vasant Chavan was ploughing the land with the help of tractor. The cousin of the Complainant has questioned about it and therefore, all the Accused persons including the present Applicants assaulted them. It has also been alleged in the complaint that the Accused persons and present Applicants abused the Complainant and his cousin on caste basis. It has also been alleged that the present Applicants have thrown chilly powder in the eyes of the Complainant and his two companions injured Nagorao and Ashok and thereafter, the other Accused persons beaten them with the help of weapon like axe etc. On the basis of these allegations, the aforesaid crime came to be registered. The Applicants apprehend their arrest at the hands of police and thus, preferred this application for pre-arrest bail.

4 The learned counsel for Applicants submits that there are general allegations against the Applicants about abusing the Complainant and his cousin on caste basis. The learned counsel submits that the complaint was lodged against all the family members including the present Applicants. So far as the role ascribed to the present Applicants is concerned, it has been alleged in the complaint

that they have thrown chilly powder in the eyes of certain witnesses and thereafter, other co-accused persons assaulted them with the help of weapon like axe. The learned counsel submits that there are no allegations against the present Applicants so far as alleged beating extended to the Complainant, his cousin and other persons. The learned counsel submits that other co-accused came to be arrested by the police and they are released on bail by the Court. The learned counsel submits that there is dispute about the agricultural land between the Complainant and co-accused and the present Applicants and as such, the possibility of false implication cannot be ruled out.

5 The learned APP submits that the Applicants alongwith other co-accused have abused the Complainant and his cousin on caste basis. It has also been alleged in the complaint that the present Applicants have thrown chilly powder in the eyes of Nagorao and Ashok and thus, facilitated the commission of crime. The learned APP submits that co-accused were armed with weapons and the present Applicants were also there in the field alongwith the chilly powder. The learned counsel submits that during the course of investigation, the Investigating Officer has not only recorded the statements of Complainant and his witnesses, but also recorded the statements of some independent witnesses. Those witnesses have supported the

prosecution case. The learned APP submits that there is *prima-facie* evidence about formation of an unlawful assembly and as such, the Applicants being the members of the said assembly, liable for the act of other members of the said assembly. The learned APP submits that in the said assault, witness Ashok had sustained grievous injury whereas the other witnesses have sustained injuries.

6 It appears from the contents of the complaint that there is a dispute between two families in respect of the agricultural land Gat No.4 situated within the limits of village Mauja. Even at the time of alleged incident, the proceedings in respect of the said land were going on in Tahsil Karyalaya, Hingoli. Though the learned counsel for Applicants submits that the proceedings were already closed by Tahsil Karyalaya, Hingoli, it appears from the contents of the complaint that the quarrel has taken place on account of civil dispute between the parties. It also appears from the contents of complaint that there are general allegations against the present Applicants so far as abuses on caste basis are concerned. On perusal of the investigation papers, I do not find that witness Nagorao and witness Ashok were treated for any sort of injury in their eyes. So far as the present Applicants are concerned, except the said allegations of throwing chilly powder in the eyes of Nagorao and Ashok, they have not participated in the alleged

incident of beating. In view of the civil dispute between the parties and the fact that all the members of the family shown to have been involved in the alleged crime, possibility of false implication can not be ruled out altogether. The other co-accused are released on bail. In the given set of allegations, the custodial interrogation of the present Applicants is not required. In view of the same, I proceed to pass the following order:

ORDER

- I. Criminal application is hereby allowed.
- II. In the event of arrest of Applicant Nos.1 to 3 (Shindhubai w/o Sheshrao Chavan, Fulabai w/o Govind Chavan and Ashabai w/o Ambadas Chavan) respectively in connection with Crime No.62 of 2017 registered at Basamba Police Station, District Hingoli, they be released on bail on furnishing personal bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one surety of the like amount on the following conditions:
 - a) The Applicants shall not tamper with the prosecution evidence in any manner and

shall cooperate the Investigating Officer in
the further investigation, if any.

III. Criminal application is accordingly disposed of.

[V. K. JADHAV, J.]

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