

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

CRIMINAL APPLICATION NO. 4922 OF 2017

1. Atul Balasaheb Chaudhari
Age: 26 years, Occu.: Agri.,
2. Ganesh Balasaheb Chaudhari
Age: 30 years, Occu.: Agri.,
3. Kishor Kacharu Wagh
Age: 40 years, Occu.: Agri.,
4. Adinath Babasaheb Wagh
Age: 30 years, Occu.: Agri.,
5. Navnath Nivrutti Wagh
Age: 35 years, Occu.: Agri.,
6. Sandip Sopan Wagh
Age: 24 years, Occu.: Agri.,
7. Sumit Sopan Wagh
Age: 19 years, Occu.: Agri.,
8. Rahul Shivaji Wagh
Age: 20 years, Occu.: Agri.,
9. Ravindra Dnyaneshwar Wagh
Age: 26 years, Occu.: Agri.,
10. Sudhir Nanasaheb Wagh
Age: 32 years, Occu.: Agri.,
11. Anil Macchindra Wagh
Age: 30 years, Occu.: Agri.,
12. Balasaheb Dnyaneshwar Wagh
Age: 36 years, Occu.: Agri.,

13. Akash Ravindra Wagh
Age: 20 years, Occu.: Agri.,

All R/o Village Chitali,
Tq. Rahata, Dist. Ahmednagar.

..APPLICANTS

VERSUS

1. State of Maharashtra
Through the Police Inspector
Taluka Police Station – Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar.

2. Ashok Chabbu Pagare
Age: 29 years, Occu.: Business,
R/o Village Chitali, Tq. Rahata,
Dist. Ahmednagar.

..RESPONDENTS

**WITH
CRIMINAL APPLICATION NO. 6031 OF 2017**

Ramjan Shikandar Shaikh
Age: 32 years, Occu.: Labour,
R/o Village Chitali, Tq. Rahata,
Dist. Ahmednagar.

VERSUS

1. State of Maharashtra

2. Ashok Chabbu Pagare
Age: 29 years, Occu.: Business,
R/o Village Chitali, Tq. Rahata,
Dist. Ahmednagar.

..RESPONDENTS

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Mr. K.G. Patil, Advocate h/f Mr. S.S Wagh, Advocate for applicants.
Mr. A.D. Namde, A.P.P. for respondent no.1 - State.
Mr. Sk. M.A. Jahagirdar, Advocate for respondent no.2.

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CORAM : V.L. ACHLIYA, J.
DATED : 30th NOVEMBER, 2017

ORDER :

1. The applicants in both the applications apprehending arrest in connection with offence u/s 143, 147, 149, 324, 323, 504, 506 of I.P.C. and u/s 3(1)(r)(s) and 7 of S.C. & S.T. (Prevention of Atrocities) Act, 1989 registered vide C.R. No. I-103 of 2017 with Shrirampur Taluka Police Station, Dist. Ahmednagar, have preferred these applications seeking anticipatory bail.

2. Heard the learned Counsel for the applicants, the learned A.P.P. for State and the learned Counsel representing the informant. Perused the copy of F.I.R. as well as the papers of investigation.

3. In short, it is the contention of the learned Counsel for the applicant that the complaint lodged against the applicants is false and made with an ulterior motive to any how implicate them in the offence registered under the provisions of S.C. and S.T. (Prevention of Atrocities) Act, 1989. It is contended that on account of some incident, counter cases have been registered. At the instance of Ganesh Chaudhari – applicant no.2 case has been registered against the informant and others u/s 307, 324, 323, 504, 506, 104, 143, 147 and 149

of I.P.C. vide C.R. No. I-104 of 2017 with Police Station Shrirampur. It is contended that in the said incident, the informant had sustained injury to the vital part of the body i.e. head and that too by assault by Ashok Pagare by means of sword. Besides Ganesh Chaudhari – applicant no.2, Navnath Wagh – applicant no.5 also sustained injury. It is contended that as counter blast to the complaint lodged at the instance of applicant no.2, false complaint has been lodged to implicate the applicants. By referring F.I.R. it is pointed out that so far as incident date 12th August, 2017 occurred at 8 p.m, allegations were attributed to applicant nos. 1 to 8 but in the conclusion of part of the F.I.R., names of applicant nos. 1 to 13 have been shown as persons present and participated in the incident occurred at 8 p.m. In this background it is contended that lodging of complaint with such exaggeration itself points out implication of innocent persons. In this background, the learned Counsel submits that the applicants deserve to be released on bail. He further submits that the allegations made in respect of abuse in the name of caste are fake and general in nature. Prima facie the allegations do not attract the commission of offence u/s 3(1)(r)(s) of S.C. and S.T. (Prevention of Atrocities) Act, 1989.

4. On the other hand, the learned A.P.P. for State and the learned Counsel representing the informant opposed the application with contentions that there is bar provided u/s 18 of S.C. and S.T. (Prevention of Atrocities)

Act, 1989 not to entertain the application seeking anticipatory bail. It is contended that the allegations in F.I.R. prima facie attracts offence u/s 3(1)(r) (s) of S.C. and S.T. (Prevention of Atrocities) Act, 1989. So far as merit of the submission advanced, it is contended that motorcycle of Navnath Wagh – applicant no.5 was found on the spot which itself sufficient to draw inference that the applicants were present on the spot. They have formed unlawful assembly and visited the house of informant. The learned Counsel for the informant submits that names of applicant nos. 9 to 13 are referred in F.I.R. in respect of the incident which was occurred before 3 p.m. and as the complaint was lodged in respect of incident occurred before 3 p.m., names of all the applicants have been mentioned in F.I.R. In the facts and circumstances of the, the learned A.P.P. and the learned Counsel representing the informant urged to reject the application.

5. On due consideration of the submissions advanced in the light of the F.I.R., I am of the view that case is made out to entertain Criminal Application No. 4922 of 2017 seeking anticipatory bail to the extent of applicant nos. 3 and 9 to 13. On perusal of F.I.R. it reveals the names of applicant nos. 3 and 9 to 13 are not shown as persons present and participated in the incident which was occurred at 8 p.m. on 12th August, 2017. So far as presence of other applicants in earlier incident is concerned, the allegations are vague and

general in nature and not sufficient to attract offence u/s 3(1)(r)(s) of S.C. and S.T. (Prevention of Atrocities) Act, 1989. No overt act is attributed to them in commission of offence. I am therefore inclined to allow Criminal Application No. 4922 of 2017 to the extent of applicant nos. 3 and 9 to 13.

6. So far as applicant nos. 1, 2 and 4 to 8 in Criminal Application No. 4922 of 2017 and applicant in Criminal Application No. 6031 of 2017 is concerned, the names of these applicants are specifically mentioned in the incident which was occurred on 12th August, 2017 at around 8 p.m. F.I.R. in respect of said incident was lodged immediately after the incident. It is apparent from the allegations made in F.I.R. that applicant nos. 1, 2 and 4 to 8 are adjacent and visited the locality where the house of the informant is located on account of previous dispute in village. As per the allegations they have abused the informant and others in the name of their caste and assaulted them. The motorcycle of applicant no.5 also found on the spot. In this view, prima facie case is made out against applicant nos. 1, 2 and 4 to 8 in Criminal Application No. 4922 of 2017 and applicant in Criminal Application No. 6031 of 2017 as registered against them. In view of bar appearing u/s 18 of S.C. and S.T. (Prevention of Atrocities) Act, 1989, they are not entitled to be released on anticipatory bail. Hence the following order :-

ORDER

- (i) Criminal Application No. 6031 of 2017 is rejected.
- (ii) Criminal Application No. 4922 of 2017 is rejected to the extent of applicant nos. 1, 2 and 4 to 8.
- (iii) Criminal Application No. 4922 of 2017 is allowed to the extent of applicant nos. 3 and 9 to 13.
- (iv) In the event of arrest of applicant nos. 3 and 9 to 13 in Criminal Application No. 4922 of 2017 in connection with offence u/s 143, 147, 149, 324, 323, 504, 506 of I.P.C. and u/s 3(1)(r)(s) and 7 of S.C. & S.T. (Prevention of Atrocities) Act, 1989 registered vide C.R. No. I-103 of 2017 with Shrirampur Taluka Police Station, they be released on bail on each of them furnishing bail in the sum of Rs.10,000/- with one surety in the like amount on the condition that the applicant nos. 3 and 9 to 13 shall attend Shrirampur Taluka Police Station on every Sunday in between 10 a.m. to 11 a.m. to record their presence till conclusion of investigation and filing of final report in the matter.

(v) Failure to attend police station, bail granted to the applicant nos. 3 and 9 to 13 shall liable to be canceled.

(vi) Both the applications stand disposed of in the above terms.

(V. L. ACHLIYA, J.)

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