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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.59 OF 2017**

1. Jayant Narishn Bahulikar  
Aged 58 years, Occ. Service,  
Residing at Flat No.4B,  
Pushpakunj Apartment,  
Ideal Colony,  
Kothrud, Pune.
2. Bharat Ramchandra Naik  
Aged 60 years, Occ. Service,  
Residing at Flat No.3,  
Krishnai Nagari,  
New Sanghvi,  
Pune.
3. Sunil Dattatraya More  
Aged 35 years, Occ. Service,  
Residing at 1<sup>st</sup> Floor, Saste Building,  
Alandi-Moshi Road, Near Om Gym.  
Moshi, Pune.
4. Abdul Noor Mohammad Qureshi  
Aged 58 years, Occ. Service,  
Residing at Sr.No.55,  
Bhagvodaya Nagar,  
Kodhwa Bk, Pune.

...Appellants

Versus

The State of Maharashtra  
Through Senior Inspector of Police,  
Alandi Police Station, Pune.

...Respondent

**WITH  
CRIMINAL APPEAL NO.60 OF 2017**

1. Madhusudan Lakshman Rathi  
Aged 70 years, Occ. Business,  
Residing at B4, Abhimanshri Housing  
Society, Pashan,  
Pune.
  2. Adit Madhusudan Rathi  
Aged 47 years, Occ. Business,  
Residing at B4, Abhimanshri Housing  
Society, Pashan,  
Pune
- ...Appellants

Versus

The State of Maharashtra  
Through Senior Inspector of Police,  
Alandi Police Station, Pune.

...Respondent

Mr.M.S.Mohite a/w Mr.Omkar Nevagi and Ms.Prerana Patil i/b  
Mr.Ashish Sawant and Mr.Santosh Sawant, for the Appellants in  
both the appeals.

Ms.G.P.Mulekar, A.P.P for the Respondent-State

Mr.K.D.Bhosale, for the original complainant.

**CORAM : SMT.V.K.TAHILRAMANI &  
REVATI MOHITE DERE, JJ.**

**DATE : 25<sup>th</sup> JANUARY, 2017**

**JUDGMENT (Per Revati Mohite Dere, J.) :**

1. Heard both sides.

2. By these appeals, the appellants have impugned the order dated 12<sup>th</sup> January, 2017 passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, passed in Criminal Bail Application No.13 of 2017, by which their application for anticipatory bail came to be rejected. The aforesaid appellants are seeking pre-arrest bail in connection with C.R.No.3 of 2017, registered with the Alandi Police Station, Pune, for the alleged offences punishable under Sections 3(1) p, q, r and u of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 466, 467, 120B r/w 34 of the Indian Penal Code.

3. The complainant - Ramchandra Baburao Salve belongs to the Scheduled Caste, whereas the appellants are stated to be upper caste Hindus. According to the complainant - Ramchandra, he joined Lovejay India Private Limited, a group company of Rathi Group on 28<sup>th</sup> June, 1995 as a driller and was performing his services sincerely for several years. According to him, during his tenure the company did not suffer any loss due to his default nor he was convicted for moral turpitude. It is the

complainant's case, that as the companies owners and officers had failed to provide safety equipments to the labourers/workers of the company, a complaint was filed against the Company before the Labour Commissioner/Factory Inspector. He has stated that in the said enquiry, the company was required to pay fine of thousands of rupees, due to which, the company instigated the high caste labourers and Labour Association, against him and his colleague - Lakshmikant V. Gorase, as they belonged to scheduled caste.

4. He has alleged that on 3<sup>rd</sup> October, 2010, at about 3.00 p.m., he was called in front of the companies gate and an atmosphere of terror was created, as the company wanted to remove him from the services. He has stated that taking undue advantage of the fact, that he belongs to Scheduled Caste and that he could file false complaint under the Atrocities Act, the company took affidavits from the workers by pressurizing them. He has stated that the company was misusing these affidavits, by preventing anybody from taking any legal action against them. He has stated that the company was going to use the

said affidavits, in order to save their skin. He has stated that the affidavits were affirmed by the workers who belonged to the higher caste, only at the instigation of the company. According to the complainant, all these affidavits were done in order to create terror and to use the same against him, by creating bogus evidence, by filing the same before the police authorities and to have him suspended and removed from service. The complainant - Ramchandra had further stated that the real reason for removing him from the service was caste discrimination. He has stated that after he was suspended, the company realised the falsity and called him and asked him to resume his duties again on 23<sup>rd</sup> July, 2010. He had stated that although, he was given wages during the suspension period, the company prepared an apology letter by writing his (complainant's) name. According to him, he had not signed the said apology letter nor was the handwriting on the said letter his. According to the complainant, an enquiry was initiated against him, however, the said enquiry was not completed and the enquiry was stopped. He has further stated that committee did not complete the enquiry procedure, yet passed an order

of his removal by convicting him. He has stated that he filed several complaints with the Alandi Police Station, but no cognizance was taken by the police. He has stated that against the order suspending him, he has preferred an appeal before the Labour Court. He has stated that because of the false documents created, he was harassed, on the basis of his caste and was discriminated. According to him, the forged and bogus documents were created by the appellants by colluding with each other and a false enquiry was conducted with the sole object of removing him/suspending him.

5. We have heard the learned counsel for the appellants, the learned APP and the learned counsel for the complainant.

6. We have perused the FIR, the gist of which is produced in para 4 hereinabove. The aforesaid appeals have been filed in view of the amendment to Section 14 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Act 1 of 2016.

7. In the present case, after perusing the FIR, we are prima-facie of the view, that the averments therein do not disclose the commission of an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. A perusal of the FIR shows that the allegations are against the 'company', and that no individual role has been ascribed or made against any of the appellants. Appellant Nos.1 and 2 in Criminal Appeal No.60 of 2017 are the Chairman and Managing Director of M/s.Rathi Transpower Private Limited (Polybond Group Company) and the appellants in Criminal Appeal No.59 of 2017 are; appellant no.1 is the General Manager, Appellant No.2 is the Manager Estate and Security, Appellant No.3 is an Executive Human Resource and Appellant No.4 is the Deputy Manager of the said company.

8. Relevant provisions of Sections 3(1) p, q, r and u of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, with which we are concerned, read thus:-

**3. Punishments for offences of atrocities.-**

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

....

**(p)** institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

**(q)** gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

**(r)** intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

**(s)** ....

**(t)** ....

**(u)** by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;

**(v) to (z)....”**

9. As noted earlier, the allegations are as against the company and no individual role is ascribed to any of the appellants. A perusal of the FIR, prima-facie shows, that none of the ingredients of the said provisions, are disclosed in the FIR.

10. As far as other allegations are concerned i.e. under the Indian Penal Code, it appears that the complainant was removed from the services, pursuant to which, the aforesaid complaint has been lodged. It is not in dispute, that the complainant has preferred an appeal before the Labour Court challenging his dismissal from the said company and that the same is pending. The incident, as alleged by the complainant, pertains to the year 2010, whereas, the FIR has been lodged in January, 2017 i.e. after almost 6 ½ years. In our view, considering the peculiar facts of this case, custodial interrogation of the appellants is not required.

11. Considering the aforesaid, we are of the opinion that the appellants are entitled to pre-arrest bail and pass the following order:

**ORDER**

- (i) The appeals are allowed. The impugned order dated 12<sup>th</sup> January, 2017 passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, passed in Criminal Bail Application No.13 of 2017, is quashed and set aside;

- (ii) In the event of the arrest, the appellants - Jayant Narishn Bahulikar, Bharat Ramchandra Naik, Sunil Dattatraya More, Abdul Noor Mohammad Qureshi, Madhusudan Lakshman Rathi and Adit Madhusudan Rathi be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount.

12. All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**

**(V.K.TAHILRAMANI, J.)**