

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRI. APPLICATION (ABA) NO. 125 OF 2017

(JIWAN PRADIPRAO DESHMUKH & 6 OTH...VS.. STATE OF MAH. THR. P.S.O. RISOD, DIST.
 WASHIM)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri N.B.Kalwaghe, Advocate for Applicants.
 Shri S.P.Deshpande, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : JUNE 19, 2017.

Heard.

The applicants (7 in number and out of them 6 between the age group of 24 to 28), apprehending arrest in crime registered against them for the offences punishable under Sections 141, 143, 147, 149, 324, 427, 504, 506 of the Indian Penal Code, Section 135 of the Maharashtra Police Act, 1951 and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have sought pre-arrest bail. The crime is registered against the applicants on the accusation that after the team of Sk. Akbar Sk. Babu won the cricket match against the team of Karda village (to which the applicants belong) some of the applicants abused Sk. Akbar Sk. Babu and because of that the incident occurred in which certain persons suffered injuries and the tractor of Sk. Akbar Sk. Babu was damaged.

The applicant Nos. 1 to 6 have stated that they are not involved in any other crime/ offence. As far as applicant No.7 is concerned, two crimes, one for the offence punishable under Section 354-A of the Indian Penal Code

and another for the offence punishable under the Maharashtra Police Act, are registered against him.

The application is opposed by the non-applicant on the ground that there is ample material showing the involvement of the applicants in the crime/ offence. It is argued that the prayer for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure cannot be considered in view of the bar created by Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 after considering the material placed on record, I find that the ingredients necessary to constitute the offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is *prima-facie* not made out and the prosecution will have to prove its case at the trial.

This Court has granted protection to the applicants by order dated 3rd March, 2017. The non-applicant has not made any grievance that the applicants have misused the protection granted by this Court or have not co-operated with the Investigating Agency. The non-applicant has not been able to show that the custody of the applicant is required for further investigation.

Considering the facts of the case and the nature of the accusations against the applicants, the order passed by this Court on 3rd March, 2017 granting interim protection to the applicants is confirmed.

The application is **allowed** accordingly.

JUDGE