

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

CRIMINAL APPLICATION (ABA) No. 307/2017

Abhaykumar Chaganlal Jain and others

Vs

The State of Maharashtra, Through Police Station Officer, Old City, Akola

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

Court's or Judge's orders

Shri M.N. Ali, Adv. for the applicants.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 11.07.2017

Heard.

Apprehending arrest in connection with crime registered for the offence punishable under sections 452, 436, 506, 323 read with Section 34 of the Indian Penal Code and Section 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicant has sought pre-arrest bail.

The facts on record show that there had been Civil disputes between the predecessor in title of the complainant and mother of applicant no. 1. The applicants have also lodged report against the complainant.

The application is opposed mainly on the ground that prayer 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.

The learned Session Judge has recorded in the order passed on 2nd May, 2017 that the complaint does not refer to any specific abuses hurled by the applicants. On examining the First Information Report, I prima facie find that the ingredients necessary to constitute the offence punishable under Section 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not made out and the prosecution will have to prove its case at the trial.

This Court has granted protection to the applicants by the order passed on 5th May, 2017 imposing condition of attendance at the Police Station. The Investigating Agency has not made any complaint that the applicants have not co-operated with it.

The Non-applicant has not been able to point out that 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 5th May, 2017 granting protection to the applicant is confirmed.

The application is **allowed** accordingly.

JUDGE