

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

CRIMINAL APPLICATION NO.(ABA) NO.369/2017

Shamshadbi Rajekha Pathan and another

..Vs..

The State of Maharashtra, through P.S.O. Washim (Gramin), Washim

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 applicant.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 13.6.2017.

The applicants, apprehending arrest in crime registered against them for offence punishable under Sections 324, 336 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 seek pre-arrest bail. The crime is registered against the applicants on complaint of Ramesh Pandurang Ambhore who is a neighbour of the applicants. According to the investigating agency, the applicant No.2 is being prosecuted for offence punishable under Section 376 of the Indian Penal Code, Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on the complaint lodged by Ramesh Pandurang Ambhore earlier and on the day of incident the applicants came near the house of the complainant and

asked him to withdraw the complaint lodged by him against the applicant No.2, threatened the complainant and abused him. The application is opposed on the ground that investigation is in progress, that the applicants are residing near the house of the complainant and if they are granted pre-arrest bail then there is apprehension of some untoward incident. The learned A.P.P. has submitted that the prayer of the applicants for grant of pre-arrest bail cannot be granted in view of provisions of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The applicant No.1 has also lodged a complaint against Ramesh Pandurang Ambhore. Undisputedly, the relations between the parties are strained. After examining the complaint lodged by Ramesh Pandurang Ambhore, I find that the accusations are not sufficient to constitute an offence punishable under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the investigating agency will have to establish it at the trial.

Considering the nature of accusations and the facts on record specially that the applicant No.1 is a woman aged about 40 years and applicant No.2 aged about 19 years is a student prosecuting his studies at an Industrial Training Institute at Khamgaon, in my view, the applicants are entitled for pre-arrest bail, however, on conditions as imposed by this order.

In the event of arrest in Crime No.156/2017

registered by the non-applicant, the applicant No.1 - Shamshadbi Rajekha Pathan be released on bail on furnishing P.R. bond for Rs.10,000/- (Rs. Ten Thousand) and one solvent surety in the like amount.

In the event of arrest in Crime No.156/2017 registered by the non-applicant, the applicant No.2 - Motisim Rajekha Pathan be released on bail on furnishing P.R. bond for Rs.10,000/- (Rs. Ten Thousand) and one solvent surety in the like amount.

The applicant No.2 shall not enter village Rithad, Tah. Risod, Distt. Washim till the charge-sheet is filed.

After filing of the charge-sheet, the applicant No.2 shall not enter village Rithad, Tah. Risod, Distt. Washim unless granted permission by the Sessions Court.

The applicant No.2 will be at liberty to apply to the Sessions Court for relaxation of this condition, if so advised.

The application is **allowed** in the above terms.

JUDGE