

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

CRIMINAL APPLICATION (ABA) NO.419/2017

Salim Shah Manwar Shah and another

..Vs..

State of Maharashtra, through Police Station Officer, Police Station Manora,
Distt. Washim

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

Court's or Judge's orders

Shri A.G. Agrawal, Adv. h/f Shri S.S. Dhengale, Adv. for the applicants.
Shri T.A. Mirza, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 20.6.2017.

Heard.

The applicant and his son apprehending arrest in crime registered against them for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have sought pre-arrest bail. The crime is registered on the complaint of Namdeo Tople that the applicants, on seeing brother and sister-in-law of the complainant near kirana shop at Banjara Chowk raised dispute regarding some amount which according to the applicants was payable by the brother and sister-in-law of the complainant to the

applicants and then suddenly both the accused assaulted brother of the complainant by pipe and stick which they took out from tapri of the applicants.

The application is opposed on the ground that prayer for grant of pre-arrest bail cannot be considered in view of bar created by Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The learned A.P.P. has further submitted that the victim has suffered injuries on head and looking to the nature of incident and the fact that investigation is still going on application be dismissed.

On examining the F.I.R. I find that the ingredients necessary to constitute offence punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are prima-facie not existing and the prosecution will have to prove its case at the trial.

The applicants claim to be Labourers. It is stated in the application that the applicants are not involved in any other crime / offence. It is stated in paragraph No.15 that the applicants have not filed any other application under Section 438 of the Criminal Procedure Code either before the Supreme Court of India or before this Court.

Considering the facts of the case and the submissions made by the applicants, as recorded above, following order is passed.

In the event of arrest in Crime No.52/2017 registered by the non-applicant, the applicants be

released on bail on executing P.R. bond for Rs.20,000/-
(Rs. Twenty Thousand) each.

The application is **allowed** accordingly.

JUDGE

Tambaskar.