

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

CRIMINAL APPLICATION (ABA) NO.482/2017

Deepak Shyamlal Jaiswal

..Vs..

State of Maharashtra, through Police Station Officer, Police Station, Mahagaon,
Tah. Mahagaon, Distt. Yavatmal

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

Court's or Judge's orders

Shri V.N. Patre, Adv. for the applicant.
Shri A.D. Sonak, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 7.7.2017.

Heard.

The applicant, apprehending arrest in connection with crime registered for offence punishable under Sections 353, 341, 294 and 332 read with Section 34 of the Indian Penal Code and Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has sought pre-arrest bail.

The learned Advocate for the applicant has pointed out that applicant is running a “Dhaba” after obtaining requisite permission for using the land in question for non-agricultural purposes, there was an illegal demand by the complainant who is working as Talathi and it is not fulfilled by the applicant and, therefore, false complaint is filed by the complainant - Talathi. To support this, the applicant relies on the application submitted by him to the office of Tahsildar on 17th June, 2017. The complaint is lodged by the complainant - Talathi at 19.15 Hrs. on 17th June, 2017

obviously, after the applicant submitted the application to the office of Tahsidlar. In the complaint, which is filed on 17th June, 2017 at 19.15 Hrs., it is stated that the incident has taken place on 15th June, 2017 between 11 to 11.30 a.m.

The application is opposed on the ground that the prayer of the applicant under Section 438 of the Code of Criminal Procedure cannot be granted in view of the bar created by Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

After examining the F.I.R., I find that the ingredients necessary to constitute the offence punishable under Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are *prima facie* not made out and the prosecution will have to prove its case at the trial.

Considering the facts of the case, following order is passed:

In the event of arrest in connection with Crime No.407/2017 registered by the non-applicant, the applicant be released on bail on executing P.R. bond for Rs.10,000/- (Rs. Ten Thousand).

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

JUDGE