

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

CRIMINAL APPLICATION (ABA) NO.823/2016

Ganesh S/o Janardhan Tapre

..Vs..

State of Maharashtra, through Police Station Officer, Police Station, Vasant
Nagar, Pusad, Tq. Pusad, 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 A.S. Deshpande, Advocate for the applicant.
Shri , A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 9.6.2017.

Heard.

The applicant has sought pre-arrest bail in crime registered against him, his wife and daughter for the offence punishable under Sections 323, 504 and 506 read with Section 34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime is registered against the applicant, his wife and daughter pursuant to the order passed by the learned Magistrate under Section 156(3) of the Criminal Procedure Code on the application filed by the complainant. The accusations against the applicant are that on 15th November, 2016 at about 10 a.m. when the informant was standing in front of his house alongwith his brother, the accused came

there and started abusing and beat the informant.

The application is opposed on the ground that investigation is still going on. The learned A.P.P. has submitted that the application filed by the applicant under Section 438 of the Criminal Procedure Code 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 other two accused i.e. wife and daughter of the applicant are directed to be released on pre-arrest bail by the order passed by the learned Additional Sessions Judge in Miscellaneous Criminal Application No.462/2016 on 6th December, 2016. This Court has granted interim protection granted to the applicant by the order passed on 16th December, 2016. The non-applicant has not made any complaint that the applicant has misused the interim protection granted by this Court. The applicant is serving as Driver in the Maharashtra State Road Transport Corporation and claims that he is not involved in any other crime or offence earlier. The non-applicant has not been able to show that the custody of the applicant is required for further investigation. Prima facie, I find that the allegations made against the applicant do not make out offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

In the above facts, I am of the view that the interim protection granted by this Court on 16th

December, 2016 is required to be confirmed. It is accordingly confirmed and the application is **allowed**.

JUDGE

Tambaskar.